



**Professional Fiduciaries Bureau (Bureau)
Advisory Committee Meeting
Wednesday, June 21, 2023**

Meeting Minutes

Committee Members Present

Bertha Sanchez Hayden, Chair
Elizabeth Ichikawa
Chi Elder
James Moore
Linda Ng

Department of Consumer Affairs (DCA) Staff Present

Rebecca May, Bureau Chief
Angela Cuadra, Bureau Program Analyst
Helen Geoffroy, DCA Legal Counsel

1) Call to Order – Bertha Sanchez Hayden, Chair

Ms. Sanchez Hayden called the meeting to order at 10:01 a.m. and stated the meeting was being held via WebEx and webcast with no physical public locations pursuant to Government Code section 11133.

2) Roll Call and Establishment of Quorum – Angela Cuadra, Program Analyst

Ms. Cuadra called roll. Committee members: Ms. Sanchez Hayden, Ms. Elder, Ms. Ichikawa, Mr. Moore, and Ms. Ng were present via WebEx. A quorum was established with five members present.

3) Advisory Committee Members, Bureau Chief, Staff and Legal Counsel Introductions

Ms. Sanchez Hayden welcomed new Advisory Committee member Linda Ng. She also thanked former Committee members Wendy Hatch and Denise Nelesen for their contributions to the Committee. Committee members, Bureau staff, and legal counsel introduced themselves.

4) Public Comment on Items Not on the Agenda (See “Note” below)

Ms. Sanchez Hayden explained this agenda item is intended for the public to comment on items not included on today’s agenda.

Public Comment: None.

- 5) Reading of the Professional Fiduciaries Bureau Mission Statement – Rebecca May, Bureau Chief

Ms. May read the Bureau’s mission statement.

Public Comment: None.

- 6) Discussion and Approval of the Advisory Committee Meeting Minutes from March 15, 2023 – Bertha Sanchez Hayden, Chair

Ms. Elder motioned to approve the March 15, 2023, meeting minutes as written. Ms. Ichikawa seconded the motion. There was no discussion from the committee members. A vote by roll call was taken: Ms. Sanchez Hayden, Ms. Elder, Ms. Ichikawa, and Mr. Moore were in favor of approving the minutes as written. Ms. Ng abstained from voting. The motion carried with four votes. Ms. Cuadra stated the minutes would be posted to the website.

Public Comment: None.

- 7) Update from the Director’s Office – DCA Executive Staff

Melissa Gear, Deputy Director, Board and Bureau Relations, provided the Department of Consumer Affairs update. She congratulated Linda Ng on her recent appointment to the Advisory Committee and thanked Denise Nelesen and Wendy Hatch for their service. She provided an update on the Department’s Diversity, Equity and Inclusion initiative, anticipated changes to Bagley-Keene Open Meeting Act requirements and upcoming in person meetings, and mandatory trainings for Advisory Committee members. Ms. Gear encouraged individuals interested in serving on the Advisory Committee to apply.

Public Comment: The moderator read a Webex comment meant for the previous agenda item (#4) asking where an attorney can find the procedure to apply for a professional fiduciary license. Ms. May responded that the process to apply for a professional fiduciary license is the same for attorneys as other individuals and is outlined on the Bureau’s website. She also stated that if the requester has questions, they can email the Bureau.

- 8) Budget Report – DCA Budget Analyst
Harmony DeFilippo, Budget Analyst provided the Bureau’s budget update. She provided information regarding 2022/23 fiscal month 10 expenditure projections and noted that costs have increased since 2021/22 budget year mainly in personnel services and Attorney General costs. She also provided information on the Bureau’s fund condition, noting that projected revenue is static in this budget year and in out years. She noted the fund condition presumes the Bureau will fully expend its appropriation ongoing and that any savings would remain in the Bureau’s fund helping the reserve balance. She further noted that the Bureau’s

fund balance reserve is currently declining due to a structural imbalance as expenditures outweigh revenue and projected to be insolvent by the end of budget year 2023/24, exacerbated by the passage of AB 1194 [Chapter 417, Statutes of 2021]. She noted the fund condition includes a “control section loan” which was included in the Governor’s budget intended to prevent the Bureau’s insolvency in budget year 2023/24. However, she noted the Bureau will not be required to take a loan if immediate action is taken to resolve the Bureau’s fund insolvency. She noted the Bureau has been working with the Department to avoid insolvency with a proposed fee increase.

Public comment: None.

- 9) Legislative Update and Discussion – DCA Legislative Analyst
Daryl Holloway, Legislative Analyst, Department of Consumer Affairs, provided a legislative update pertaining to bills affecting the Bureau: AB 1262 (Committee on Business and Professions), SB 232 (Niello), SB 280 (Laird), and SB 544 (Laird). He first provided important upcoming dates on the legislative calendar. He then provided information on the text of each bill and its status.

Ms. Sanchez Hayden asked if SB 280 was a two-year bill, or if a determination would be made this year. Mr. Holloway confirmed it is a two-year bill and not moving forward this year.

Public comment: None.

- 10) Bureau Updates – Rebecca May, Bureau Chief
- Application, Licensing and Enforcement Statistics - Ms. May presented licensing and enforcement statistics from July 1, 2022, through March 31, 2023.
 - Outreach Events – Ms. May noted she met with a local group of licensees in San Luis Obispo County in April. She noted no upcoming outreach events and encouraged meeting attendees to email the Bureau regarding outreach events.
 - E-Newsletter - Ms. May stated the most recent newsletter was posted to the Bureau’s website and disseminated via the interested parties email list the week prior. She said that staff is currently putting together the next newsletter. She stated the Bureau is happy to take suggestions on what to include in the newsletter and encouraged meeting attendees to email their suggestions.
 - Strategic Plan – Ms. May said she had planned to bring objectives from the Strategic Plan to the Advisory Committee for discussion but does not have an update at this time. She stated the Bureau’s commitment to working through the Strategic Plan with the assistance of the Advisory Committee and plans to agendize the Strategic Plan at the next Advisory Committee meeting in

September.

- **Sunset Review** - Ms. May stated she attended a hearing before the Senate and Assembly Business and Profession Committees in March and fielded questions regarding the Bureau's functions. She noted the Bureau's financial situation and pending fee increase were a big part of the discussion. She stated AB 1262 was amended after the hearing to extend the Bureau's sunset date by four years and the bill included all the legislative proposals included in the Bureau's sunset report. She expressed appreciation that legislative staff had been receptive to working through the issues identified by the Bureau in the sunset report. She also stated that she pressed at the hearing and meetings surround sunset review that the population served by the Bureau is very vulnerable and that maintaining the licensure of professional fiduciaries and the Bureau is necessary. She promised to continue providing updates to the Advisory Committee as the sunset process continues.
- **Website Updates** – Ms. May stated Bureau staff updated the licensing page to clarify that application fees for inactive and retired license types are non-refundable, added study materials to the applicant page, embedded the application how-to video to be more prominent and accessible, updated the consumer resources page with current information, and are currently working on updating the licensee and applicant how-to videos.
- **Bill Implementation** – AB 1194 – Ms. May stated that the Bureau is continuing to work toward the implementation of AB 1194. In addition to pursuing a fee increase rulemaking, she stated Bureau staff has continued to mail non-compliance letters for failing to put fee schedules on websites and has had good results. Bureau staff have also mailed letters to the court clerks of all 58 counties to remind them of the requirements and included information on AB 1194 in the newsletter and in social media updates.

Public Comment: None.

- 11) **Proposed Rulemakings Update – Rebecca May, Bureau Chief**
Proposed Fee Increase and Initial Licensing Period Regulation Amending Sections 4428, 4568, 4575, and 4580, Division 41 of Title 16 of the California Code of Regulations

Ms. May reported that the Bureau filed the proposed rulemaking to increase fees with the Office of Administrative Law on June 6, 2023. She noted the proposed text, supporting documents, and information for the public on how to comment are included in the Advisory Committee meeting materials and on the Bureau's website. She also noted that the rulemaking is currently within its 45-day open comment period, written comments must be received by the Bureau no later than August 2 at 5pm, and a public comment hearing would be held on Thursday, August 3 at 10am at DCA headquarters in Sacramento. She also noted the

meeting would be available via Webex for members of the public unable to attend in person.

Ms. May stated the fee increase addresses the implementation of AB 1194 and the revenue deficit from a static licensing population. Relating to AB 1194, she stated the Bureau was clear with the Legislature and stakeholders that the increased workload and enforcement costs could not be absorbed and would result in a fee increase. She further stated that after the bill was passed into law, the Bureau asked for and received increased spending authority in the Governor's 22/23 budget.

Ms. May provided that in addition to the cost pressures of AB 1194, the Bureau's revenues no longer keep pace with the Bureau's expenditures. She stated that fees have not been increased in 15 years while the costs for maintaining the Bureau have increased significantly. She stated that further exacerbating the imbalance, the licensee population has barely grown and while new licenses are being issued, nearly the same number of licensees are deciding not to renew or applying for inactive or retired license status.

Ms. May noted the hardship for applicants and licensees this fee increase presents and stated that the regulation was crafted as carefully and conservatively as possible and that the Bureau elected to seek significantly less than the full anticipated costs related to AB 1194.

Ms. May stated the Bureau's anticipated insolvency and the need for a fee increase have been brought to the last several Advisory Committee meetings and the fee increase is necessary to prevent the Bureau's insolvency in fiscal year 24/25 and to implement the statutes governing the profession. She stated she would continue to update the Committee as the regulation moves through the rulemaking process.

Ms. Geoffrey noted that pursuant to the Bagley-Keene Open Meetings Act, discussion by the Committee is limited to topics noticed on the agenda. She further noted this agenda item was noticed as a proposed rulemaking update and not noticed as discussion and comment to edit the contents of the proposed rulemaking. She provided that the rulemaking is within the 45-day open comment period and that the most appropriate place for interested parties to comment on the rulemaking is at the regulatory hearing scheduled for August 3.

Public comment: Jerry Desmond on behalf of the Professional Fiduciaries Association of California commented that PFAC would be participating at the public comment hearing in August. He noted PFAC appreciates the continuation of the Bureau and supports a modest fee increase that corresponds with a cost-of-living increase since 2007 which would be \$990 instead of \$1,300 for an annual renewal. He expressed worry that the fee increase is much higher than the adjustment and that the increase will create a significant barrier to entry to

the profession with a resulting decline in the licensing population which will further exacerbate the need for additional revenue. He noted that for the Bureau to be sustained, the licensing pool must be increased, or the Bureau's expenses must be decreased. He also noted alternatives to a substantial fee increase such as having the Legislature reexamine the assumptions used to support the fee increase related to the implementation of AB 1194; amending the licensure act so that a court order or other determination of an issue is binding on the Bureau; revising the licensure act to clarify that when relief is sought by a consumer extends beyond discipline there are other routes that can be taken; and eliminating the qualified exemption for enrolled agents.

12) Future Agenda Items

Ms. Cuadra noted that Ms. May had asked to include strategic planning items on a future agenda.

Public Comment: None.

13) Future Meeting Dates

- Wednesday, September 20, 2023
- Wednesday, December 13, 2023

Ms. Sanchez Hayden noted that due to Bagley-Keene Open meeting requirements, the September and December meetings will be held in person, in Sacramento, with no remote locations. Committee members did not mention any scheduling conflicts for the future dates and asked to contact Ms. Cuadra if any conflicts arise.

Public Comment: None.

14) Adjournment

The meeting was adjourned at 11:00 a.m.