



**Professional Fiduciaries Bureau (Bureau)
Advisory Committee Meeting
Wednesday, December 13, 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
Reza Pejuhesh, DCA Legal Counsel

1) Call to Order – Bertha Sanchez Hayden, Chair

Ms. Sanchez Hayden called the meeting to order at 10:00 a.m.

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. A quorum was established with five members present.

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

Committee members, Bureau staff, and legal counsel introduced themselves.

4) Public Comment on Items Not on the Agenda

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

Public Comment: Michael Sternberg stated he was a member of the press and has been attending State Bar of California Trustee meetings and challenging them regarding rampant misconduct among attorneys and the Bar itself. He stated the State Bar does not investigate claims of misconduct, has a pattern of closing complaints instead of investigating, and an employee has been shredding complaints. He commended the Bureau for having public comment at beginning

of meeting but disagrees with being asked not to name names as it prevents people from being held accountable.

Mr. Pejuhesh clarified that not providing name and complaint details is a legal matter and not an intent to shroud in secrecy.

Jodee Sussman stated she was concerns regarding lack of sanctions for professional fiduciaries that lie and breach duties. She stated that a woman in Orange County committed crimes and was able to surrender her license. She further stated that nothing stops crooked professional fiduciaries from draining estates and when caught, they can surrender and set up shop in another state. She asked the Committee to make it not so appealing to crooked fiduciaries.

Mr. Pejuhesh clarified that if an individual goes through a licensed disciplinary proceeding and surrenders their license it is considered formal discipline on their license. He further stated that the Bureau has a limit on its authority and is not a criminal body that can punitively sanction a person. He clarified that the Bureau's role is to protect the public from licensees here in California and if a license is revoked or surrendered, their record of discipline in California should follow them if they are seeking licensure elsewhere. He further stated that California is unable to control other states' licensing programs.

Farnaz Rahimi stated she was the victim of same professional fiduciary as the previous commenter. She stated that while she understands what Mr. Pejuhesh said about the discipline, the discipline should be more severe. She requested more accountability for licensees, and for the Bureau to have more restrictive policies such as adding reports regarding suspensions or removals to the licensee lookup.

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

Ms. May read the Bureau's mission statement.

There were no comments from the committee members.

Public Comment: Farnaz Rahimi stated she reviewed the Bureau's sunset review report and the Bureau's mission and understands Bureau is understaffed. She stated it appears that the Bureau is for the benefit of professional fiduciaries and not the public.

- 6) Discussion and Approval of the Advisory Committee Meeting Minutes from September 27, 2023 – Bertha Sanchez Hayden, Chair

No members suggested edits to the minutes. Ms. Elder motioned to approve the meeting minutes. Ms. Ng seconded the motion. There was no discussion from

the committee members.

Public Comment: Farnaz Rahimi noted that the criminal background check was taken out and wants the Bureau to provide case name and information regarding removals and suspensions to the public. She believes this change is aimed at protecting professional fiduciaries and not the public and would like to return these sections to Professional Fiduciaries Act.

Mr. Pejuhesh asked if Ms. Rahimi's comment related to the meeting minutes, as it wasn't clear that it was relevant. Ms. Sanchez Hayden stated she understood the comment was related to the sunset report. Ms. May agreed it was related to the sunset report and not directly to the minutes.

Ms. Cuadra repeated the motion and a vote by roll call was taken. Ms. Sanchez Hayden, Ms. Elder, Ms. Ichikawa, Mr. Moore, and Ms. Ng were in favor of approving the minutes as written while allowing Bureau staff to make non-substantive changes as needed. The motion carried with five votes. Ms. Cuadra stated the minutes would be posted to the Bureau's website as written.

Ms. Rahimi stated her comment was related to previous minutes but did not have them in front of her.

Mr. Pejuhesh stated the motion can stand, unless committee members want to return to it. No committee members asked to hold the adopted motion. Ms. Sanchez Hayden stated the adopted motion would stand.

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

Melissa Gear, Deputy Director, Board and Bureau Relations, provided an update on behalf of the Department of Consumer Affairs. She congratulated Ms. Sanchez Hayden, Ms. Ichikawa, and Mr. Moore on their reappointments to the Advisory Committee. She also noted Tomiquia Moss was appointed Secretary of the Business, Consumer Services and Housing Agency. She provided an update regarding the Department's Diversity, Equity and Inclusion (DEI) endeavors.

She reported the Department recently launched an online military portal to assist military members and spouses relocating to California in applying for licensure. She also noted that boards and bureaus are authorized to conduct online meetings with no publicly accessible physical locations through the end of 2023. She asked Advisory Committee members to complete Sexual Harassment Prevention Training by the end of the year if they have not already done so. She also provided an update on the Department's Our Promise campaign and annual food drive.

Ms. Sanchez Hayden confirmed with Ms. Gear that Sexual Harassment Prevention Training is due by December 31, 2023.

Ms. May commented that the Information Security Training is not required for members since they do not have a DCA email address, but they are welcome to take the training if they would like. Ms. May also thanked Ms. Gear for all her efforts this year.

Public comment: None

8) Budget Report – DCA Budget Analyst

Nikki Brady, Budget Analyst, Department of Consumer Affairs, provided the Bureau's budget update including expenditure and revenue projections and the Bureau's fund condition statement. Related to expenditures, Ms. Brady noted the projections are based on actual data through fiscal month four and includes 2022-23 actual expenditures compared to the 2023-24 budgeted and projected expenditures. Ms. Brady stated the Bureau had budgeted approximately \$1.9 million and is projected to spend \$775,000 creating a reversion to the Bureau's fund of approximately \$318,000 or 29.7%. She further noted the Bureau's revenue projection document includes receipts collected through October and provides projected revenues to year end.

Ms. Brady reviewed the Bureau's fund condition statement. She noted the Bureau began fiscal year 2022-23 with a beginning balance of just over \$300,000 and collected \$655,000 in revenue, with \$78,000 from initial license fees, \$544,000 from license renewals, and \$35,000 from the issuance of citation fines, delinquent fees and other revenue. She reported the Bureau expended nearly \$720,000, which includes \$52,000 indirect draws to the fund for statewide pro-rata and pension payments. She estimated the Bureau will close fiscal year 2022-23 with \$254,000 reserve balance or 3.7 months in reserve.

Ms. Brady provided that for the current year, the Bureau projects revenues of \$870,000 which includes the new fee increase with approximately \$133,000 projected from initial license fees, \$724,000 from renewal fees and \$109,000 from the issuance of citation fines, delinquent fees and other revenues. She further provided the Bureau's fiscal year 2023-24 expenditures, based on the Budget Act, to be \$820,000 between authorized expenditures and direct draws to the fund, leaving the Bureau with a fund balance of \$853,000 or 8.7 months in reserve.

Ms. Brady stated the DCA Budget Office will continue to monitor the Bureau's revenues and expenditures and report back to the Bureau with monthly expenditure projections. She noted that the fund condition is a snapshot in time, and includes 2023-24 projected revenue including increased application, initial and renewal fees, noting the that increased renewal fee begins for licenses expiring on March 31, 2024, and after. Revenue is projected static in the out years.

She noted that one of the main factors driving future expenditure increases is personnel service adjustments including general salary increases, employee compensation, as well as retirement rate adjustments. She stated the Budget Office includes a conservative ongoing 3% increase to expenditures on the fund condition statement to account for ongoing, incremental adjustments. She noted any future legislation or unanticipated events could result in the need for additional resources which would create cost pressures on the fund.

Lastly, she responded to a question from Ms. Elder at the previous Advisory Committee meeting regarding “other regulatory fees” from the revenue document as they seem to be significantly different than what was budgeted and what the source was. Ms. Brady explained that it was due to an increase in cite and fine and that the revenue document will be updated at the next Advisory Committee meeting with the release of the Governor’s budget.

Public comment: Farnaz Rahimi asked for a budget increase for a bureau investigator because it appears to be underbudgeted.

Ms. May responded to Ms. Rahimi that the Bureau recently promulgated regulations to increase fees, intended to allow the Bureau to hire additional enforcement staff in Spring 2024. She also noted that the Bureau relies solely on licensing and renewal fees, and given the small licensing population, the budget is commensurate.

James Counts recommends the Bureau fix its budget problem, that the fee increase will not be sufficient, and any decrease to renewals or applications will negatively impact the budget within two years. He suggested the Bureau speak to the Legislature for possible solutions.

9) Legislative Update and Discussion – DCA Legislative Analyst

Daryl Holloway, Legislative Analyst, Department of Consumer Affairs, noted it is the end of the first year of a two-year legislative cycle and that bills held this year may be brought forward again in 2024. He provided an update regarding bills affecting the Bureau including information on the text and status of each bill: AB 1262 (Committee on Business and Professions), SB 232 (Niello), SB 280 (Laird), and SB 544 (Laird).

Ms. Ng asked whose responsibility it would be to review and enforce the care plans under SB 280 and if it would be the Judicial Council. Mr. Holloway advised that he would find out and respond to Ms. Ng via email. Mr. Pejuhesh stated the Judicial Council would not likely be the enforcement body but would instead prepare the care plan form for use in court. Ms. Sanchez Hayden added that generally care plans are filed directly with the court in conservatorship cases and reviewed by the court and probate investigators.

Ms. Sanchez Hayden asked if there was similar legislation to SB 232 in which counties would have to adopt the definition of gravely disabled right away, instead was a roll out. Mr. Holloway said he would look into it and get back to her.

Public comment: None.

10) Bureau Updates – Rebecca May, Bureau Chief

- Application, Licensing and Enforcement Statistics - Ms. May presented application, licensing and enforcement statistics from July 1, 2023, through September 30, 2023. She noted that Bureau staff are required to process applications or to notify applicants of a deficiency within 90 days.
- Outreach Events – Ms. May noted there had been no events since the last meeting and were no upcoming outreach events. She mentioned reaching out to the Department of Consumer Affairs to see if they can help identify outreach events. She encouraged meeting attendees to email the Bureau regarding outreach events.
- E-Newsletter - Ms. May stated the newsletter would be posted to the Bureau's website by the end of the week, at which time and will be disseminated via the interested parties email list. She thanked Ms. Ichikawa for allowing the Bureau to feature her in the newsletter. She said that staff will soon start working on the Spring newsletter and if there are items members would like to see in the newsletter to please email the Bureau.
- Sunset Review - Ms. May stated the sunset review process for 2023 had concluded with the Governor's signature of AB 1262, which extended the Bureau's sunset for four years and made other statutory changes. She thanked the Advisory Committee, the Department of Consumer Affairs, and Bureau staff for their support during the sunset process and stated that the next sunset review would be in 2026.
- Continuing Education Audit – Ms. May provided information regarding general continuing education requirements for licensees and how it relates to the renewal process. She stated that the Bureau randomly selected five percent of licensees and asked them to provide proof of completion of continuing education. She stated that the audit was not complete at this time, however the compliance rate appears to be lower than expected. She stated she would provide an update at the next meeting and also plans to conduct a continuing education audit yearly.
- Bill Implementation – Ms. May stated that the Bureau is continuing to work toward the implementation of AB 1194 by pursuing a fee increase and

preparing to hire additional enforcement staff. She also noted that Bureau staff are preparing to implement AB 1262 including promulgating regulations and advising licensees of new requirements via the interested parties list, the newsletter and social media.

Public Comment: Daniel Bowe stated he is an applicant and waiting for approval to take the examination. He belongs to a group of aspiring professional fiduciary applicants and says the timing cited by Ms. May regarding processing times is not the experience of the group. He asked if there were plans to revise and expand the applications portion of the PFB website. He also asked if there were regular reviews of the application process from start to license issue that may impact timing and/or success of the applicants. He also asked if there was a pathway for applicants experiencing issues that may be actionable that go beyond complaints but that might be beneficial. He said he had received an email from the group asking about the background check process and that this was just one of the serious faults his group had found in the licensure process.

Farnaz Rahimi asked about the Bureau's plan regarding renewals, as she has brought to the Bureau's attention that a licensee was not reporting removals for cause and if that would affect his renewal. She would prefer this to be done during the renewal process versus not having enough enforcement budget. Mr. Pejuhesh responded that the renewal process is separate from the disciplinary process and if a complaint is pending and the licensee completes the requirements for renewal, they are entitled to having their license renewed. He further stated that licensees are entitled to due process and the Bureau can't withhold renewal due to a pending complaint. Ms. Rahimi stated that the licensee had not reported removals or resignation or settlement on annual statements and that it was not regarding a complaint or investigation.

11) Strategic Plan Status Update and Discussion– Rebecca May, Bureau Chief

Ms. May stated there were no fully completed items to report since the last meeting, however some items were in progress. She noted the Bureau would be receiving feedback today from the Advisory Committee regarding the goal to update the website (Goal 1.3) and identify needed changes. She stated the Bureau is working with the Department to update its "how-to" videos on how to apply for a license and how to fill out the annual statement form. She also stated that the Bureau is starting the process to hire enforcement staff in Spring of 2024 as identified in the strategic plan under Goal 2.5.

Ms. Ichikawa presented ideas for suggested updates to the Bureau's applicant page. She stated that she reviewed the website keeping in mind that visitors to the page are either looking to learn more or have decided to become a professional fiduciary. She thought people with and without experience would be looking at the website. She suggested it would be helpful to reiterate who professional fiduciaries are and what they do at the top of the page. She also

suggested that it would be helpful to have a brief description of the knowledge needed and the information tested on under the examination study materials information. She stated that links to the Business and Professions Code, the California Code of Regulations, and Professional Fiduciaries Code of Ethics. Under the application page, she suggested it would be helpful to clarify that the examination fee will be collected by CGC to administer the test and that separate fees are collected by live scan operators, so there are no surprises. She suggested including renewal fees with information regarding licensee responsibilities. She also proposed including a link to livescan locations under the section detailing fees. Lastly, she suggested under information resources to explain how one can find the Professional Fiduciaries Code of Ethics since the link goes to the entire code section and not the Code of Ethics specifically. Ms. May stated the Bureau agrees and wants to make fee collection by outside entities clearer on the website.

Mr. Moore stated he took time to review the licensee page and felt it was easy to navigate. He also asked four colleagues to review the licensee page and all four said there was no need to make any changes.

Ms. May asked the Advisory Committee for guidance on how to better educate licensees on licensure and renewal requirements to increase compliance. She noted that when cited, licensees commonly state that they were unaware of the requirement. She stated that ideally the Bureau is sufficiently communicating with new and existing licensees about requirements under the Act. She stated that new licensees receive a letter when first licensed providing reporting and renewal requirements that asks them to also keep up with laws as they change. She stated that enforcement actions taken by the Bureau are not intended to be punitive but instead corrective and to prompt compliance. She further stated that investigations take staff time and resources, and it would be nice for the bureau to be able to educate licensees to better focus resources on bigger investigations and not smaller infractions.

Ms. Elder thought Ms. Ichikawa's suggestions were helpful and may address some of these concerns by providing a link to specific documents or information available instead of redirecting the user back to the website. She also recommended the Bureau provide a downloadable document to make it easier for new licensees. She notes that the Bureau wants to lower barriers for eligible applicants, and providing readily available information that includes email and phone numbers for new applicants to contact the Bureau for assistance is beneficial.

Ms. Ng asked if the Bureau can provide licensees the opportunity to talk with each other and if the Bureau can provide information in a webinar so everyone will understand what the Bureau expects. Ms. May said that the Bureau has FAQs on its website but likes the suggestion for a webinar. She stated that resources are tight but if the end goal preserves some staff resources because

the information is clear enough to prevent follow up emails and questions it may be worth the time. Ms. May stated the Bureau may be able to do a segment on licensing requirements at the quarterly Advisory Committee meetings.

Ms. May stated the second goal is strengthening the Bureau's relationships with the court and law enforcement. She noted that historically, the Bureau has struggled with this. She further noted that all courts and law enforcement are run at the local level and it has been difficult to establish firm relationships, but the Bureau is open to suggestions on how to do so.

Ms. Ichikawa stated that professionals associated with the courts have professional associations, including court investigators and probate staff attorneys. She also stated some have a listservs, conferences, and regional trainings. She further noted that probate staff attorneys review the work professional fiduciaries do in trust cases and court investigators do so in conservatorship cases. Ms. May responded that the Bureau wants to receive referrals from the courts and they should know how to contact the Bureau.

Public Comment: Jodee Sussman responded to the comment regarding court investigators and attorneys calling out corrupt fiduciaries, stating it never happens in Orange County. She stated that court investigators have been compliant, it's a money-making racket, and it takes too long for the Bureau to investigate. She stated they rip off dead family members accounts and self-enrich themselves. She further stated that the public is frustrated with lack of responsibility and enforcement of the rules and that professional fiduciaries need accountability, not just surrendering their license.

12) Proposed Rulemakings Update – Rebecca May, Bureau Chief

Ms. May reported that the Bureau's fee increase rulemaking was approved by the Office of Administrative Law on November 28th and the fee increase will go into effect on January 1, 2024. She stated the Bureau will continue to keep committee members updated and will track how the fee increase impacts the Bureau's revenues.

Public comment: Farnaz Rahimi asked if the fee increase was only for initial license or for renewals also. She stated it should be higher for the Bureau to protect consumers. Ms. May responded that the fee increase is across the board – application, initial license, renewals and reinstatement from retired and/or inactive licenses. She noted that the Bureau is facing a deficit related to the passage of AB 1194 which increases a need for additional staff and enforcement costs. She also noted that the Bureau hadn't raised fees since its inception in 2008.

13) 2024 Chair and Vice Chair Elections.

Chi Elder nominated Bertha Sanchez Hayden for Chair. Ms. Ichikawa made a motion and Mr. Moore seconded the motion. Ms. Elder, Ms. Ichikawa, Mr. Moore, Ms. Ng, and Ms. Sanchez Hayden all voted "yes." Ms. Cuadra announced Ms. Sanchez Hayden would be Chair for 2024.

Bertha Sanchez Hayden nominated Elizabeth Ichikawa for Vice Chair. Ms. Elder, Ms. Ichikawa, Mr. Moore, Ms. Ng, and Ms. Sanchez Hayden all voted "yes." Ms. Elder made a motion and Mr. Moore seconded the motion. Ms. Cuadra announced Ms. Ichikawa would be Vice Chair for 2024.

Public comment: None.

14) Future Agenda Items

Ms. Cuadra noted Ms. Ng had asked who would enforce SB 280 and Ms. Sanchez Hayden asked if there was any legislation that has passed similar to SB 43.

Public Comment: Farnaz Rahimi suggested more compliance and more restrictive punishment once investigated by the Bureau. She would also like to bring back the items removed in regulation regarding criminal background checks and adding suspension records to the initial and annual statements.

15) Future Meeting Dates

- Wednesday, March 13, 2024
- Wednesday, June 12, 2024
- Wednesday, September 11, 2024
- Wednesday, December 11, 2024

Public Comment: None.

16) Adjournment

The meeting was adjourned at 11:56 a.m.