

THE

PFB UPDATE



STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS



PROFESSIONAL FIDUCIARIES BUREAU

SPRING 2022

MESSAGE FROM THE BUREAU CHIEF

Hello friends of the Professional Fiduciaries Bureau!

Spring is always a great time to plan ahead, and the Bureau intends to do just that by renewing its strategic plan. In partnership with the Department of Consumer Affairs, this process will provide an opportunity to examine the Bureau's mission and values, gauge successes, and determine how to improve outcomes. With a new strategic plan in place this fall, the Bureau will have achievable benchmarks to foster success in meeting its consumer protection mandate.

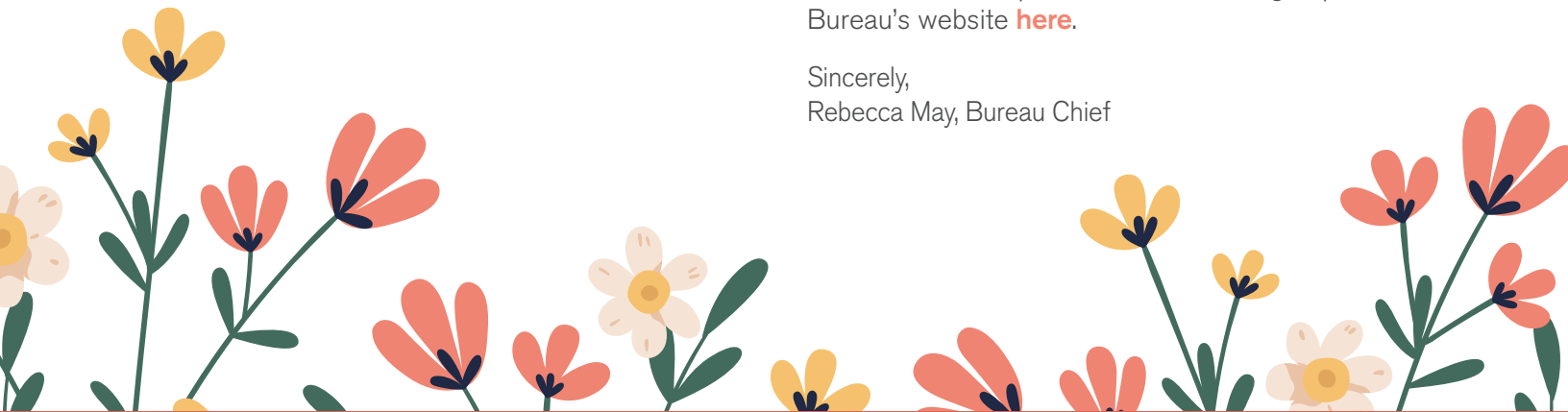
There has been a lot of attention on conservatorships recently, and that attention prompted new legislative changes to the Professional Fiduciaries Act in 2021. It is always important for licensees to be aware of the laws that govern their license and to take note of new

requirements when they occur. To that end, I invite you to review "Adopted Legislation Impacting Professional Fiduciaries" on page 5.

I am also delighted to introduce our readership to Bertha Sanchez Hayden, the Advisory Committee's vice chair, on page 2. Ms. Sanchez Hayden fills a public spot on the committee, serving as a public member representing a nonprofit advocating for the elderly. As directing attorney at Bet Tzedek Legal Services, she provides legal support to vulnerable older adults, those with disabilities, and the families and caregivers who care for them. To say that the Bureau is incredibly fortunate to be able to access her comprehensive knowledge and expertise on the Advisory Committee is an understatement!

The best way to keep up with the Bureau is to sign up for our interested parties list. You can sign up on the Bureau's website [here](#).

Sincerely,
Rebecca May, Bureau Chief



DEPARTMENT OF CONSUMER AFFAIRS



PROFESSIONAL FIDUCIARIES BUREAU

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GET TO KNOW OUR ADVISORY COMMITTEE MEMBER BERTHA SANCHEZ HAYDEN

Since 2020, Vice Chair Bertha Sanchez Hayden has served as a public member representing a nonprofit advocating on behalf of the elderly to the Professional Fiduciaries Bureau's Advisory Committee. She was elected vice chair in December 2020.

Tell us a little about yourself.

My name is Bertha Sanchez Hayden, and I am the directing attorney of Bet Tzedek Legal Services Caregiver Services. Bet Tzedek is a premier legal service nationally recognized for leadership and innovation in serving the unique issues of low-income older adults, adults living with intellectual/developmental disabilities, and their respective caregivers. For over 10 years, my work has focused on helping dependent individuals and caregivers access legal services related to advance planning, probate conservatorships, and public benefits advocacy.

As an attorney practicing elder law, you have comprehensive knowledge regarding conservatorships. What would you like the public to understand when it comes to conservatorships?

I want to impress on individuals how important it is to self-educate on the legal process of conservatorship. Through my years of service, I value educating the public, above all else. I routinely see families who are considering a difficult caregiving situation and automatically assume that the solutions that worked for another family will work for them. Conservatorship is not usually the first option to choose: It is designed as a last-resort solution to support a vulnerable adult. Prior to establishing a conservatorship, the court

will look to see why other alternatives to conservatorship are not sufficient for offering the vulnerable adult the aid and support needed. It is also important for individuals to understand that once a conservatorship is established, it is the start of a new legal relationship between the conservatee and conservator. The conservator assumes an affirmative responsibility to execute duties and report to the court. It is important to appreciate the scale of the responsibility being assumed.

How can consumers—especially seniors—better protect themselves?

It is critical to plan and fully understand what is involved in that planning. Seniors who may be transitioning from employment to retirement (from employer-based insurance to Medicare, from independence to perhaps needing some in-home help) will need to gain a basic understanding of legal options and public programs surrounding these changes. It is important for seniors—and all consumers—to avail themselves of educational resources/platforms and community education events sponsored by local representatives. For instance, our direct services experts at Bet Tzedek devote time to creating educational materials that will arm seniors and caregivers with a better understanding of the many issues that need to be considered.



LEGISLATIVE UPDATE

The following pending legislation in the California Legislature may be of interest to our licensees and consumers. Additional information regarding these bills, including full text and policy committee analyses, can be found at www.leginfo.legislature.ca.gov.

AB 1062 (Mathis) Conservators and guardians: disposition of property

Status: Pending Senate Judiciary Committee

This bill would authorize a guardian or conservator of an estate to dispose of or abandon valueless property, only after providing all persons who received notice of the petition, 15 days written notice, and reasonable access to the property prior to its disposal or abandonment. It would authorize a person who received notice to petition the court to resolve a property right dispute. If a guardian or conservator of the estate becomes a successor trustee while the ward or conservatee is alive, the bill would require the conservatee's or ward's personal property and real property, located in this state, to be subject to the continuing jurisdiction of the court, unless the court finds it is not in the ward's or conservatee's best interest.

AB 1663 (Maienschein) Protective proceedings

Status: Pending Senate Judiciary and Human Services Committees

This bill would revise various procedures in the conservatorship process. The bill would require the court to provide conservatees with written information regarding their rights and options, including a personalized list of the rights the conservatee retains. The bill would expand the annual duties and reporting requirements of court investigators conducting required visits to assess the progress of a conservatorship. The bill would also revise the procedures for termination of limited conservatorships by requiring the court to terminate an uncontested petition for termination under specified circumstances, and without a hearing.

The bill would also require the Judicial Council to establish a conservatorship alternatives program for each superior court. The conservatorship alternatives program would identify petitions for conservatorships in which less restrictive alternatives could be used to

avoid conservatorship. The bill would establish, and define, a supported decision-making process for adults with disabilities. It would authorize an adult with a disability to request, and have, adults or supporters present in any meeting or communication and would set forth the duties of supporters. The bill would provide that a supported decision-making agreement may be terminated by the adult with a disability, the supporters, or the terms of the agreement. The agreement would also be terminated, with respect to any supporter who is found liable for specified offenses. The bill would require the Judicial Council to establish and staff the Supported Decision Making Technical Assistance Program (SDM-TAP). The bill would appropriate \$10,000,000 from the General Fund to the Judicial Council, to be allocated for purposes of implementing the conservatorship alternatives program and the SDM-TAP.

AB 1733 (Quirk) State bodies: open meetings

Status: Pending Assembly Governmental Organization Committee

This bill would specify that a "meeting" held under the Bagley-Keene Open Meeting Act includes a meeting held entirely by teleconference, as defined, so long as the state body adheres to certain specified requirements such as: ensuring the public has the means to hear, observe, and address the state body during the meeting; providing the public with at least one physical location where they can participate; posting the meeting agendas online and at the physical meeting location with information indicating how the meeting can be accessed; and ensuring that if a means of remote participation fails, the meeting must adjourn. The bill would require the agenda to be posted 10 days in advance of the meeting, or in accordance with the provisions applicable to a special or emergency meeting, as well as posted on the state body's website and, on the day of the meeting, at any physical meeting location designated in the notice. The bill would also provide that the notice of the meeting is required to specify how the meeting may be accessed by teleconference. The bill would prohibit the notice and agenda from disclosing any information regarding any remote location from which a member is participating, and require members attending a meeting from a remote location to disclose whether any other individuals 18 years of age or older are present in the room. This bill also contains an urgency clause, signifying it becomes law immediately upon the governor's signature

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SB 602 (Laird) Review of conservatorships: care plans
Status: Pending Assembly Judiciary Committee

This bill would require a conservator to submit a care plan regarding his or her conservatee within 30 days of appointment or within 30 days before a hearing to determine the continuation or termination of an existing conservatorship. The care plan is to be submitted to specified persons regarding the care, custody, and control of the conservatee. The bill would require the Judicial Council to develop a form for the care plan, including descriptions of the conservatee's living arrangement and level of care, and any plans to modify those within the next 12 months. The bill would also impose sanctions for a conservator's failure to timely submit a care plan, including requiring the court to impose a civil penalty in any amount up to \$5,000, to be deposited into an unspecified fund, unless the court finds good cause to not impose a penalty. The bill would require the most recent care plan to be included within the court investigator's report, and would require the court to review the most recent care plan in determining the continuation or termination of the conservatorship.

SB 1005 (Wieckowski) Conservatorship: sale of personal residence

Status: Pending Assembly Floor

This bill would revise the provisions authorizing the sale of a conservatee's personal residence or other real or personal property of the estate, to specifically include the power to partition, or bring an action to partition, the personal residence or other real or personal property of the estate. The bill would also subject partition of the conservatee's present or former personal residence to the same conditions as would be applicable to the sale of the residence.

SB 1024 (Jones) Replacement of an incapacitated or deceased professional fiduciary

Status: Pending Assembly Judiciary Committee

This bill would authorize a conservator, agent under a power of attorney for asset management, trustee, or interested person to petition for the appointment of a professional fiduciary practice administrator, to act as a temporary professional fiduciary when a professional fiduciary either becomes incapacitated or dies and a vacancy exists. The bill would require the petition to allege the estimated value of assets in each matter in which the professional fiduciary practice administrator will be acting. The bill would require the court to appoint the professional fiduciary practice administrator, and to require the professional fiduciary practice administrator to file a surety bond in each matter in which they are appointed temporary successor. The bill would set forth compensation requirements for the professional fiduciary practice administrator. The bill would also authorize the professional fiduciary practice administrator to petition for the appointment of a permanent successor. The bill would specify that it does not limit the authority granted to a court to remove or replace a guardian or conservator, personal representative, or trustee.

REGULATORY UPDATE

The Professional Fiduciaries Bureau withdrew its proposed inactive and retired license status regulation in February in response to suggested clarifying amendments by the Office of Administrative Law (OAL). The Bureau is working with the Department of Consumer Affairs' legal staff to draft revised language with the intent of resubmitting the regulatory package to OAL after allowing for another public comment period. The public will be provided with guidelines on how and when to comment on the proposed regulation via the Bureau's interested parties list.

If you would like to receive updates regarding proposed regulatory changes as soon as they occur, you are encouraged to sign up for the Bureau's interested parties list by visiting the Bureau's [website](#) and clicking on "[Join Our Mailing List](#)."

ADOPTED LEGISLATION IMPACTING PROFESSIONAL FIDUCIARIES

In 2021, two new laws made significant changes to the Professional Fiduciaries Act (Act): AB 465 (Chapter 167, Statutes of 2021) and AB 1194 (Chapter 417, Statutes of 2021). These changes **directly impact the Bureau's licensees** and it is important that licensees become familiar with them.

AB 465 requires professional fiduciary licensees, beginning January 1, 2023, as part of their renewal or restoration of a license, to complete at least two hours of instruction in ethics, two hours in cultural competency, or two hours in both ethics and cultural competency every year. In addition, beginning January 1, 2023, applicants must complete at least one hour of instruction in cultural competency as part of their initial 30 hours of education required for licensure.

AB 1194 requires by January 1, 2023, professional fiduciaries to provide a fee schedule, including hourly fees. Professional fiduciaries with a website shall post the fee schedule to their website. Professional fiduciaries without a website shall provide a fee schedule before contracting for services, upon request, or to Probate Code section 1822 interested persons. AB 1194 also specifies that a licensed professional fiduciary be liable for a civil penalty up to \$10,000 if the court finds the professional fiduciary abused a conservatee, and prohibits a guardian or trustee or an employee of the guardian or conservator to hire or refer business to an entity where they have a financial interest. Additionally, AB 1194 requires the Bureau to investigate specified allegations and impose sanctions or revoke an individual's license, as appropriate. Additionally, AB 1194 requires the Judicial Council, by January 1, 2024, to report to the Legislature its findings measuring court effectiveness in conservatorship cases.

More information about these bills, including full text and policy committee analyses, can be found at www.leginfo.legislature.ca.gov.

QUICKER SUBMISSION OF INITIAL AND ANNUAL STATEMENTS

The Professional Fiduciaries Bureau is always looking for ways to decrease processing times, make the renewal process more convenient, and reduce its paper usage when possible. There are three ways to submit Initial and Annual Statements to the Bureau:

- **By email**—PFBRenewals@dca.ca.gov
Emailed Initial and Annual Statements will be sent a confirmation message of receipt. Please do not mail duplicate copies of your statement(s) as this slows the processing time for Bureau staff.
- **By mail**—1625 North Market Blvd., Suite S-209, Sacramento, CA 95834
The Bureau is unable to provide confirmation of mail receipt. If you would like confirmation of receipt, please use a mail service that provides you a method of tracking and confirmation of delivery.
- **By fax**—(916) 574-8645
The Bureau is unable to provide confirmation of fax receipt. If you would like a confirmation that your fax was received, please ensure your fax machine is set up to provide you a confirmation of delivery.
Please do not send duplicate copies of your statement(s) as this slows the processing time for Bureau staff.



CALLING ALL EXPERTS!

The Professional Fiduciaries Bureau established its expert consultant program in 2011 as an impartial and professional way to support the investigation and enforcement functions of the Bureau.

Expert consultants provide expert reviews and opinions on complex complaints received by the Bureau.

To be an expert consultant for the Bureau, you must meet the following minimum criteria:

1. Possess a current California professional fiduciary license in good standing for the previous five years.
2. Have no prior or pending administrative or disciplinary actions.

3. Have an active fiduciary practice with a current case load with at least three clients during your career as a licensed professional fiduciary.
4. Possess in-depth knowledge of fiduciary work (trusts, conservatorships, durable power of attorney, and/or guardianships) and the professional fiduciary industry's best practices.

The Bureau has set the reimbursement rate for fiduciaries conducting case reviews and report writing at \$75 per hour and \$90 per hour for providing expert testimony at an Administrative Hearing.

If you have any questions, please email fiduciary@dca.ca.gov.

ANNUAL STATEMENT

Every year like clockwork, licensees are required to submit their **Annual Statement** at least 60 days prior to the expiration date of their license. This important requirement is a condition of licensure pursuant to **Business and Professions Code section 6562**.

Licenses will not be renewed unless an updated and complete Annual Statement is on file. Further, licensees who do not send in their Annual Statement on time risk practicing with an expired license and may be subject to administrative or enforcement actions.

Please be sure to use the most current version of the annual statement **form**.

Need help filling out your Annual Statement? Visit our website at www.fiduciary.ca.gov for a helpful tutorial **video**. You are also welcome to call us at (916) 574-7340 or email us at fiduciary@dca.ca.gov.



SEND US YOUR FEEDBACK

We hope you find *The PFB Update* useful. The Bureau welcomes your comments and suggestions for future issues. You can contact us by phone at (916) 574-7340 or by email at fiduciary@dca.ca.gov. Click [here](#) to find previous online copies of *The PFB Update*.

Please share this newsletter with your colleagues and let them know they can sign up to receive a copy by joining the Bureau's interested party list. Click [here](#) to subscribe.



VISION AND MISSION STATEMENTS

OUR VISION

Safeguarding the well-being of consumers who receive professional fiduciary services.

OUR MISSION

To protect consumers through licensing, education, and enforcement of the Professional Fiduciaries Act by promoting and upholding competency and ethical standards across the profession.

SUBJECT MATTER EXPERTS NEEDED FOR CGC

The Professional Fiduciaries Bureau's examination provider, the Center for Guardianship Certification (CGC), is seeking professional fiduciaries and guardians to serve as subject matter experts (SME). These SMEs will assist with occupational analysis and item writing for guardian certification examinations.

CGC SMEs must meet one of the following requirements:

- Serve or have served in a professional fiduciary or guardianship role in the past 3–5 years.
- Appoint individuals to serve as a professional fiduciary or guardian.
- Hold knowledge of professional fiduciary or guardian competencies and legal requirements.

SMEs must have had no disciplinary action taken against them by either a licensing agency or a court, and must have no involvement in any educational preparation related to the examination they work on.

SMEs are not compensated, but they receive continuing education credit. They must sign and comply with a confidentiality agreement.

For more information, or if you are interested in serving, please email your resume or CV to info@guardianshipcert.org.

2022 ENFORCEMENT ACTIONS

LICENSEE/APPLICANTS	LICENSE NUMBER	ACTION TAKEN	EFFECTIVE DATE
Julie Menack	346	Citation	6/2/2022
Ronald Olund	243	Citation	6/2/2022
Gail Greer	143	Citation	6/14/2022

BUREAU ACTIONS EXPLANATION OF LANGUAGE

Accusation

A formal, written statement of charges filed against a licensee.

Citation and Fine

Licensee is issued a citation and required to pay a fine commensurate with the violation committed.

Default Decision

Licensee fails to respond to an accusation by filing a notice of defense or fails to appear at an administrative hearing.

Effective Decision Date

The date the disciplinary decision/order goes into operation.

Letter of Public Reprimand

A formal reprimand issued by the Bureau, which could be in lieu of filing a formal accusation.

Revoked

The license is voided and the right to practice has ended.

Revoked, Stayed, Probation

"Stayed" means the revocation is postponed, put off. Professional practice may continue as long as the licensee complies with specified probationary terms and conditions. Violation of probation may result in the revocation that was postponed by the stay.

Statement of Issues

Charges filed against an applicant to deny licensure due to alleged violations of the Professional Fiduciaries Act.

Stipulated Settlement

The case is negotiated and settled prior to hearing.

Surrender of License

While charges are still pending, the licensee agrees to turn in the license subject to acceptance by PFB.

Writ

An appeal filed by the licensee in Superior Court asking the court to overturn PFB's decision.

IMPORTANT BUREAU UPDATES AND HOW TO RECEIVE THEM

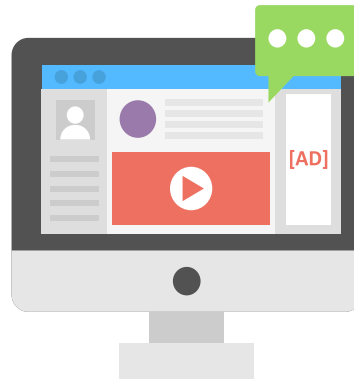
The Bureau is now on Facebook and Twitter! Follow the Bureau by clicking on the following icons or going to the specified link:



[www.facebook.com/
CaliforniaProfessionalFiduciariesBureau](https://www.facebook.com/CaliforniaProfessionalFiduciariesBureau)



<https://twitter.com/FiduciaryBureau>



Additionally, if you would like to receive notifications from the Bureau about upcoming events, new regulations, and Advisory Committee meetings, please sign up to receive email notifications from the Bureau at the following link:

[www.dca.ca.gov/webapps/
fiduciary/subscribe.php](https://www.dca.ca.gov/webapps/fiduciary/subscribe.php)

OUR OFFICE WILL BE CLOSED ON THE FOLLOWING HOLIDAYS IN 2022:

INDEPENDENCE DAY	MONDAY, JULY 4
LABOR DAY	MONDAY, SEPTEMBER 5
VETERANS DAY	FRIDAY, NOVEMBER 11
THANKSGIVING HOLIDAY	THURSDAY AND FRIDAY, NOVEMBER 24-25
CHRISTMAS (OBSERVED)	MONDAY, DECEMBER 26

ADVISORY COMMITTEE 2022 MEETING DATES:

SEPTEMBER 14 | DECEMBER 7

ADVISORY COMMITTEE MEMBERS

Chi K. Elder, chair, public member

Bertha Sanchez Hayden, vice chair, nonprofit organization advocating on behalf of the elderly

Wendy Hatch, licensee

Elizabeth R. Ichikawa, probate court investigator

James Moore, licensee

Denise Nelesen, public member

Vacant, licensee

PFB STAFF

Rebecca May, bureau chief

Angela Cuadra, program analyst

Sue Lo, enforcement analyst

DEPARTMENT OF CONSUMER AFFAIRS



PROFESSIONAL FIDUCIARIES BUREAU

LOCATION

1625 North Market Blvd., Suite S-209
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CONTACT

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