



**Professional Fiduciaries Bureau (Bureau)
Advisory Committee Meeting
Wednesday, September 27, 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-via Webex
John Kinn, 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: 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 June 21, 2023 – Bertha Sanchez Hayden, Chair

Ms. Elder motioned to approve the meeting minutes. Mr. Moore 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, Mr. Moore, and Ms. Ng were in favor of approving the minutes as written while allowing Bureau staff to make non-substantive changes if needed. The motion carried with five votes. Ms. Cuadra stated the minutes would be posted to the Bureau's website.

Public Comment: None.

- 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 reported on the progress being made by the Department's Diversity, Equity and Inclusion (DEI) Steering Committee and gave an update regarding upcoming DEI trainings for staff and Advisory Committee members. She also reported the Department would be translating press releases into Spanish and look into doing so for other languages. Ms. Gear provided an update regarding Senate Bill 143, which allows DCA boards and bureaus to conduct remote public meetings without publicly accessible locations until December 31, 2023. She also noted SB 544, which would allow for remote virtual meetings effective on January 1, 2024. Ms. Gear provided updates on two Department projects – the Enlightened Enforcement project and Data Governance project. She reminded recently reappointed Advisory Committee that they are required to take the oath of office and all employees and appointees are required to take Sexual Harassment Prevention Training this year. Lastly, she reminded Advisory Committee members they must complete Board Member Orientation Training within one year of their appointment or reappointment.

Public comment: None

- 8) Budget Report – DCA Budget Analyst

Harmony DeFilippo, Acting Budget Manager, 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. DeFilippo noted the projections are based on actual data through fiscal month 13 and includes 2021-22 actual expenditures compared to the 2022-23 budgeted and projected expenditures. She noted that costs have increased mainly in personal services and attorney general costs.

Ms. DeFilippo stated the Bureau had budgeted approximately \$1,078,000, however is projected to spend \$667,500 creating a reversion to the Bureau's fund of a little more than \$410,000 or 38.08%. She further noted the Bureau's revenue projection document includes receipts collected through June and provides projected revenues to year end.

Ms. DeFilippo 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 \$657,000 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 \$248,000 reserve balance or 2.6 months in reserve.

Ms. DeFilippo provided that for the current year, the Bureau projects revenues of \$611,000 with approximately \$96,000 projected from initial license fees, \$508,000 for renewal fees and \$7,000 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 \$1.8 million between authorized expenditures and direct draws to the fund, leaving the Bureau with a fund balance of \$271,000 or 2.8 months in reserve.

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

Ms. Ng asked for Ms. DeFilippo to further clarify what constitutes "other revenue." Ms. DeFilippo responded that "other revenue" includes citations, fines, surplus money investments and dishonored check fees.

Ms. Elder asked for clarification on "other regulatory fees" from the revenue document as they seem to be significantly different than what was budgeted and asked what the source of that was. She also noted her concerns that the Bureau would be operating at a deficit next fiscal year and asked that the Bureau keep the Legislature updated.

Public comment: None.

9) Legislative Update and Discussion – DCA Legislative Analyst

Daryl Holloway, Legislative Analyst, Department of Consumer Affairs, provided an update regarding bills affecting the Bureau: AB 1262 (Committee on Business and Professions), SB 232 (Niello), SB 280 (Laird), and SB 544 (Laird). He provided upcoming legislative deadlines followed by information on the text and status of each bill.

Ms. Elder asked for clarification on the provisions of SB 544 regarding the majority of members being present at the same location. She asked if that meant members would be connecting to the same conference link. Ms. May answered SB 544 pertains to both boards and advisory committees, and specifically for advisory committee meetings the bill would be required at least one public location with one Bureau staff member in attendance, but that advisory committee members would be able to attend remotely from locations not publicly noticed on the agenda. She noted that the provisions expire in 2026.

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, 2022, through June 30, 2023.
- Outreach Events – Ms. May noted there had been no events since the last meeting and were no upcoming outreach events. She 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 in June. She said that staff is currently putting together the next newsletter which is scheduled for December.
- Sunset Review - Ms. May stated the Advisory Committee would be provided a final report regarding sunset review at the next meeting. She noted that the governor had not yet signed the bill, but was very hopeful he would. Ms. May noted that AB 1262 would extend the Bureau's sunset date to January 1, 2027, and make other statutory changes requested by the Bureau including staggering advisory committee terms, making it a crime to hold oneself out as a professional fiduciary unless actively licensed, establishes a process for reinstatement of a canceled license, requires licensees to respond to Bureau inquiries within 30 days and prohibits licensees from aiding in unlicensed

practice. Ms. May also noted that the provisions related to staggering advisory committee terms would not be effective until 2027, therefore not affecting any current members on the committee.

- Website Updates – Ms. May stated the Bureau clarified on the licensing look up page what it means to be removed for cause or to have resigned after a complaint has been filed with the court.
- Bill Implementation – Ms. May stated that the Bureau is continuing to work toward the implementation of AB 1194 by pursuing a fee increase rulemaking and preparing to hire additional enforcement staff next year. She also noted that Bureau staff are preparing to implement AB 1262 once signed.

Ms. Ng asked what kind of outreach efforts the Bureau employs to inform the public about the profession given the Bureau's small licensing population. Ms. May responded that outreach is geared toward consumers typically at events like as senior fairs since the Bureau has a consumer protection mandate. She noted that she recognizes the need for additional licensees to help the continued fiscal health of the Bureau and is open to suggestions from Advisory Committee members. She also noted that increasing the licensing population is an item in the Bureau's strategic plan.

Ms. Elder asked if SB 544 is currently being implemented for the next meeting. Ms. May responded that SB 544 would be effective January 1, 2024, however, due to the passage of a budget trailer bill, SB 143, the Bureau would be able to have a virtual meeting in December.

Public Comment:

Ms. Michelle McBee asked if enrolled agents are required to be licensed by the Bureau and how will enforcement be handled. Ms. May responded that AB 1262 amended the existing qualified exemption for enrolled agents working within the scope of their certification from the Professional Fiduciaries Act effective January 1, 2024, provided the Governor signs the bill. She noted a provision in AB 1262 would make it a crime to hold oneself out as a professional fiduciary unless actively licensed by the Bureau and further noted that the amendment to the qualified exemption for enrolled agents includes a cross section to that new provision.

Mr. Jerry Desmond, Professional Fiduciary Association of California (PFAC), commented that PFAC supports the provisions of AB 1262 related to enrolled agents and the Business and Professions Code section 146 revisions.

Mr. James Counts stated he had compared statistics for the last two years noting a three percent drop in renewals and a 31% drop in new licenses which appears to be a downward trend and would like to hear a discussion at a future meeting

on what the Bureau is doing to counteract this downward trend. Ms. May replied that some of the attrition may be due to the Bureau recently offering inactive and retired licensing statuses and that the Bureau will add inactive and retired license numbers to the statistics for the December meeting. She also noted that she appreciated his comment about reviewing how the Bureau can increase its licensing population at future meetings.

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

Ms. May stated the Strategic Plan was finalized in January and serves as a road map for the Bureau through 2026. She noted that the Bureau will be working with the Department of Consumer Affairs to include diversity, equity and inclusion objectives within the plan starting in 2024.

She noted the Bureau had accomplished a few goals from the Strategic Plan including updating the licensing examination with the examination provider in May and updating the Bureau's consumer resources page on the Bureau's website. She noted that the Bureau is actively working on cross training between staff and updating desk manuals, determining the feasibility of moving to a smaller office suite and establishing a retention schedule to determine how long files are to be kept before they are legally destroyed.

Ms. May asked the Advisory Committee members to volunteer to review the Bureau's website, specifically the applicant, licensee, and education pages and to provide suggested improvements at the next meeting. Ms. Ichikawa volunteered to review the applicant page, Mr. Moore volunteered to review the licensing page, and Ms. Sanchez Hayden volunteered to review the education page.

Ms. May asked the Advisory Committee if there is a better way of messaging the public and licensees of the Bureau's consumer protection mandate. Ms. Sanchez Hayden suggested connecting the Bureau as a part of the Department of Consumer Affairs by adding an org chart to the website. Ms. Elder stated it may be beneficial to connect with other municipalities that have departments dedicated toward aging to amplify the Bureau's consumer protection mandate. Mr. Moore recommended messaging the Professional Fiduciaries Association of California for them to disseminate to their members.

Public Comment: None.

12) Proposed Rulemakings Update – Rebecca May, Bureau Chief

Ms. May reported that the Bureau's fee increase rulemaking's 45-day comment period ended on August 3, coinciding with a public comment hearing held in Sacramento and via Webex. She noted that the Bureau received many thoughtful

written and oral comments and is currently reviewing and responding to those comments as provided by the Administrative Procedure Act.

Public comment: Mr. Jerry Desmond on behalf of the Professional Fiduciaries Association of California commented that PFAC would support a modest fee increase that would correspond with the cost of living. He noted PFAC also supports actions to enhance consumer protection by ensuring that individuals who provide fiduciary services are licensed and overseen by the Bureau. He noted the proposed regulations will increase fees significantly and will place a new and significant barrier to entry into the profession and result in a decline in the licensing population. He further noted that the fee increase as proposed will result in future fee increases.

13) Future Agenda Items

Ms. Cuadra noted that Ms. Ng requested to discuss how the Bureau can increase the licensing population. Ms. May stated she would update the Advisory Committee with the number of retired and inactive licenses in her Bureau Chief update. Ms. Cuadra also noted committee members would provide feedback regarding feedback regarding the Bureau's website and would provide suggestions on how to best to notify licensees of the Bureau's consumer protection mandate.

Public Comment: Mr. James Counts stated he would like clarification on who is paying the renewal fee to the Bureau, as he is unsure if retirees are paying the renewal fees, and this information would assist with identifying trends.

14) Future Meeting Dates

- Wednesday, December 13, 2023
- Wednesday, March 3, 2024
- Wednesday, June 12, 2024
- Wednesday, September 11, 2024
- Wednesday, December 11, 2024

Ms. May stated because of SB 143 and SB 544, the next five meetings would be held via Webex providing significant travel cost savings to the Bureau. She also noted that there was noteworthy attendance at the meeting via Webex.

Public Comment: None.

15) Adjournment

The meeting was adjourned at 11:18 a.m.