

# CALIFORNIA BOARD OF ACCOUNTANCY

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*Protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.*

— Business and Professions Code § 5000.1

**T**he California Board of Accountancy (CBA) licenses, regulates, and disciplines certified public accountants (CPAs) and public accounting firms and corporations. The Board also regulates existing members of an additional classification of licensees called public accountants (PAs). The 1945 Accountancy Act granted the PA license only during a short period after World War II, with the last PA license issued in 1968. CBA currently regulates over 97,000 individuals, corporations, and partnerships. It establishes and maintains standards of qualification and conduct within the accounting profession, primarily through its power to license. CBA’s enabling act, the Accountancy Act, is found at Business and Professions Code section 5000 *et seq.*; its regulations appear in Division 1, Title 16 of the California Code of Regulations (CCR).

CBA is a consumer protection agency located within the Department of Consumer Affairs (DCA). The Board consists of 15 members: seven CBA licensees and eight public members. Each Board member serves a four-year term.

The Board’s staff administers and processes the nationally standardized Uniform CPA Examination, currently a four-part computerized exam encompassing the subjects of auditing and attestation; business law and professional responsibilities; regulation (including taxation, managerial accounting, and accounting for governmental and not-for-profit organizations); and

financial accounting and reporting (business enterprises). In order to be licensed, an applicant must complete 150 hours of college-level education (including substantial units in accounting and business-related subjects and ethics), complete twelve months of general accounting experience, and successfully pass all parts of the Uniform CPA Exam.

The operations of the Board are conducted through various advisory committees and, for specific projects, task forces which sunset at project completion. The Board's major advisory committees include the following:

- The Qualifications Committee (QC), authorized in Business and Professions Code section 5023, consists of non-Board member CPAs who review applicants' experience to determine whether their experience complies with the requirements in Business and Professions Code section 5093 and section 12, Title 16 of the CCR.

- The Enforcement Advisory Committee (EAC), authorized in Business and Professions Code section 5020, consists of up to 13 non-Board member CPAs who provide technical assistance to the Board's enforcement program by conducting investigations or hearings against licensees, and making recommendations to the enforcement program and the Executive Officer.

- The Peer Review Oversight Committee (PROC), created in Business and Professions Code section 5076.1, consists of up to seven CPAs appointed by the Board and oversees the Board's peer review requirement that is mandatory for licensees who perform attest engagements; the PROC is responsible for ensuring that peer review providers administer peer reviews in accordance with the standards set forth in section 48, Title 16 of the CCR.

- The Mobility Stakeholder Group (MSG), created in Business and Professions Code section 5096.21, is charged with considering whether the current "no notice, no fee" practice privilege (under which CPAs not licensed in California may offer public accounting services here

without providing notice and/or paying a fee to CBA) is consistent with the Board’s duty to protect the public, and whether the provisions of the practice privilege law satisfy the objectives of stakeholders of the accounting profession, including consumers.

Other advisory committees consist solely of Board members. The Legislative Committee reviews legislation and recommends a position to the Board, reviews proposed statutory and regulatory language developed by other committees before it is presented to the Board, and serves as an arena for various accountant trade associations to air their concerns on issues. The Committee on Professional Conduct (CPC) considers all issues related to the professional and ethical conduct of CPAs and PAs. The Enforcement Program Oversight Committee (EPOC) was created in 1996 to establish policy and procedures for the Board’s complex enforcement program.

## MAJOR PROJECTS

### CBA Submits Final Report on Practice Privilege Program

On December 14, 2017, CBA submitted its [report](#) to the legislature and DCA on whether its current “no notice, no fee” practice privilege program protects the public. [SB 1405 \(de León\) \(Chapter 411, Statutes of 2012\)](#) enacted the “no notice, no fee” practice privilege and is codified in Business and Professions Code section 5096 *et seq.* Through MSG, CBA has been implementing various consumer protection elements in SB 1405 since November 2012. Entitled *California’s Mobility Program for Accountancy—Implementation, Enforcement and Its Consumer Benefits*, the report—which was prepared by the MSG and approved by CBA on November 16, 2017—indicates that CBA and MSG completed the implementation of the “no notice, no fee” mobility program and that CBA believes that the program is equivalent to “and in many respects exceeds the

protection afforded to the public under the prior practice privilege provisions.” [[23:1 CRLR 136-42](#)]

As its name implies, the “no notice, no fee” practice privilege program allows out-of-state CPAs to practice public accountancy in California without notifying CBA and without paying a license fee to CBA. Such out-of-state CPAs are permitted to practice in California if their home state has licensing requirements, an enforcement program, and Internet disclosure of information about licensees that are substantially equivalent to CBA’s programs. Instead of conducting state-by-state research of its own, MSG and CBA decided to commission the services of the National Association of State Boards of Accountancy (NASBA), which formulated “best practices” enforcement guidelines entitled [Guiding Principles of Enforcement](#). The *Guiding Principles* include measurable objectives in the areas of (1) timeframes for processing a complaint from intake to final disposition, (2) enforcement resources to adequately staff investigations, (3) case management protocols, (4) disciplinary guidelines to ensure consistency of decisionmaking, and (5) Internet disclosures regarding discipline. Once CBA determined that NASBA’s guidelines in these areas are equivalent to its own, CBA delegated the research to NASBA, which agreed to provide CBA staff with information that permitted staff to audit the basis of NASBA’s substantial equivalency determinations.

Business and Professions Code section 5096.21(f) prescribes the contents of the final report. Following are those elements and CBA’s findings on each:

◆ ***How CBA has implemented SB 1405 and whether implementation is complete.*** The report noted that CBA adopted several sets of regulations to implement SB 1405; created the MSG as directed by section 5096.21; and, as directed by section 5096.20, overhauled its website and its

Internet disclosures on CPAs by July 1, 2013. The Board also issued an interim report to the legislature and DCA on July 1, 2015, and MSG issued four reports from 2014–2017.

Once NASBA issued its *Guiding Principles* document, CBA held a public hearing on them and determined that the objectives in that document were equivalent to its own, and delegated to NASBA the task of performing state-by-state research to determine whether the enforcement and Internet disclosure programs at other state boards of accountancy are substantially equivalent to California’s programs and the *Guiding Principles*. CBA staff reviewed NASBA’s process and substantially equivalent determinations for seven states (Arizona, Washington, Colorado, Illinois, New York, Oregon, and Texas), and CBA staff agreed with NASBA’s findings. By July 2017, NASBA had reviewed all 54 jurisdictions and eventually found that all of their enforcement and Internet disclosure programs were substantially equivalent to the *Guiding Principles*.

◆ ***Whether the “no notice, no fee” practice privilege program is, in the opinion of CBA, more, less or equivalent in the protection it affords the public than its predecessor program.*** On this issue, CBA summarized the differences between the present “no notice, no fee” program and prior versions of the practice privilege program in eight specified areas; in all eight areas, CBA found that the present program provides equivalent or more public protection than did the prior versions.

◆ ***Finally, the report must describe how other state boards of accountancy have addressed enforcement referrals to those boards from CBA, the timeframe in which those referrals were addressed, and the outcome of investigations conducted by those boards.*** On this issue, CBA observed that NASBA did not finalize the *Guiding Principles* until July 2015, and the states’ adoption and implementation of substantially equivalent enforcement programs was not complete until mid-2017. “As a result, there is little quantitative data available related to states’ handling of

CBA enforcement referrals. Further, the number of revoked practice privileges under mobility that resulted in a referral to other states stands at four.”

For these reasons, and upon NASBA and American Institute of Certified Public Accountants’ (AICPA) urging, CBA—at its November 16, 2017 [meeting](#)—approved the report and recommended that the “no notice, no fee” practice privilege program be maintained; and that the January 1, 2019 sunset date on the statutes creating the program be removed such that the program can continue indefinitely. On this subject, SB 795 (Galgiani) is currently pending in the legislature (see LEGISLATION).

On January 18, 2018, CBA [discussed](#) the future and the ongoing role of MSG. The submission of the report does not end CBA’s obligations under SB 1405. Section 5096.20(b) requires CBA to “biennially survey the Internet Web sites and disclosure policies of other boards,” and section 5096.21 requires the Board to monitor other-state enforcement and Internet disclosure programs and—if a state’s programs are not consistent with the *Guiding Principles*—to hold a hearing and require licensees of that state to notify CBA and pay a fee if they wish to practice in California. These ongoing duties reinforced CBA’s decision to maintain MSG in its current form and authority. Thus, at the January 2018 meeting, CBA unanimously voted to maintain the current authority and responsibility of MSG and require it to meet no less than twice a year. Also, CBA recommended that staff draft proposed legislation to amend Business and Profession Code section 5096.21(e) to grant MSG authority similar to other CBA advisory committees.

On March 22, 2018, CBA [voted](#) to allow NASBA to assist MSG in creating a method for conducting state-by-state analysis of enforcement procedures and Internet disclosures to determine if they continue to be substantially equivalent to those programs in California. CBA is concerned with enforcement proceedings in other states regarding practice privilege-holder complaints

referred by CBA to other state boards of accountancy. As noted in the final report, very little data on other-state handling of CBA referrals is available to CBA. Thus, NASBA was instructed to work with MSG and CBA to use its existing scope of work and methodology for determining if other states are operating under substantially equivalent requirements and enforcement procedures. A report is due to CBA in July 2018.

## Peer Review Oversight Committee Activity

At its January and March 2018 meetings, CBA discussed several recommendations and activities recently undertaken by PROC.

Business and Professions Code section 5076 requires an accounting firm that offers “accounting and auditing” services to undergo a peer review by a Board-recognized peer review program no less frequently than every three years, in order to renew its firm registration. “Peer review” is defined as “a study, appraisal, or review conducted in accordance with professional standards of the professional work of a firm . . . by an individual who has a valid and current license, certificate, or permit to practice public accountancy from this state or another state and is unaffiliated with the firm being reviewed.” The only “peer review program” that has been recognized by CBA is that of AICPA, a national trade association of CPAs; as such, California’s primary “administering entity” (AE)—the California Society of CPAs (CalCPA), the state’s largest trade association of CPAs—conducts peer reviews of CPA firms using AICPA’s elaborately-structured multi-level program. Business and Professions Code section 5076.1 creates the PROC, which consists of seven non-Board member CPAs, and charges it with overseeing the conduct of peer review in California and making recommendations to the Board to ensure the effectiveness of mandatory peer review.

On December 8, 2017, the PROC met to [review and discuss](#) the latest version (August 2017) of AICPA’s paper entitled [Evolving Peer Review Administration to Enhance Audit Quality](#). AICPA originally issued this paper for state board comment in February 2016, and revised and reissued it on a number of occasions since then. The paper advocates a proposal to increase audit quality, consistency, efficiency, and effectiveness; to accomplish this, AICPA is considering the establishment of a number of required “benchmarks” that AEs must meet in order to continue functioning as AEs. According to AICPA, the benchmarks are “qualitative, objective, and have measurable criteria along with consistency.” Failure to meet the established benchmarks will require a fair procedure to determine the appropriate remediation, and may result in being placed on probation or loss of qualification to be an AE. At the December 2017 [meeting](#), the PROC decided it would evaluate how to incorporate the AICPA benchmark model in future PROC oversight activities.

Also in December, the Committee discussed implementing a California peer reviewer population monitoring framework and amending the PROC Procedures Manual, among other documents. The PROC is working with AICPA and CalCPA to compile a report on the California peer review program in anticipation of CBA’s upcoming sunset review. The California peer reviewer population is of concern to the PROC because there is very little data available to assess the health and robustness of the population. The peer reviewer population is aging and specialized reviewers are becoming rare, but without data to track the peer reviewer population, nothing can be done to address these problems. CBA staff has been working with AICPA and CalCPA to gather data and information on the California peer reviewer population.

On January 18, 2018, CBA approved a [draft letter](#) to AICPA and CalCPA regarding a framework to monitor and evaluate the California peer reviewer population. According to the

letter, CBA is concerned “regarding the decrease in the California peer reviewer population potentially creating a barrier for licensees to timely find peer reviewers to complete the required peer review . . . .” Additionally, “[w]ithout the ability to complete the peer review, licensees may not be able to renew their license timely thus affecting the overall public accounting industry.” The Board asked AICPA and CalCPA, “as a primary CBA-approved entity responsible for statistical information related to the peer review program,” to collect specific data regarding the peer reviewer population.

Also in January 2018, CBA voted to approve [changes](#) to the membership criteria for PROC members. The Board changed the following criteria from required to desirable qualifications: (1) PROC members must be currently active in the practice of public accounting in the accounting and auditing function of a firm enrolled in the AICPA Peer Review Program as a partner of the firm, or as a manager or person with equivalent supervisory responsibilities; and (2) PROC members must be associated with a firm, or all firms if associated with multiple firms, that received a report with the peer review rating of pass for its most recent peer review. PROC proposed these changes in an effort to broaden the pool of peer reviewers and encourage more firms and CPAs to take part in the program.

On March 22, 2018, CBA [approved](#) PROC’s motion to establish a subcommittee to explore needed revisions to the many checklists that PROC uses when it makes its annual site visit to evaluate CalCPA as part of its responsibility to oversee the peer review program. The PROC staff is working to revise the oversight checklists which serve as the primary documents completed during oversight operations. PROC and CBA uniformly stressed the importance of going onsite to CalCPA in an oversight function, and ensuring that the documentary evidence compiled from the

site visit is adequate. CBA also voted to approve the 2017 PROC [annual report](#) detailing the Committee's activities in the year prior.

## CBA Rulemaking

The following is a description of forthcoming rulemaking proceedings recently discussed by CBA:

◆ **License Fee Increase.** On November 16, 2017, CBA [discussed](#) the need to increase its biennial license renewal fee to ensure that it can undertake future enforcement program efforts, transition to a new database system, and meet the mandatory months in reserve (MIR) level required by statute of 24 months' worth of operating expenses. Staff suggested that CBA initiate rulemaking to raise the biennial renewal fee from \$120 to the statutory maximum of \$250. Staff noted that during CBA's 2014–15 sunset review, the legislature questioned whether CBA's fee structure would enable it to undertake disciplinary action against a large firm. At that time, the Board conducted rulemaking to raise the biennial renewal fee to \$200, but that proposal was rejected by the Department of Finance (likely because the CBA was about to receive a repayment of \$21 million in loans it made to the general fund in the early 2000s). The general fund repaid all of the loans but the relatively low renewal fee caused the Board's MIR to shrink. Staff also noted that CBA is due for another sunset review commencing with its submission of a sunset review report to the legislature in the fall of 2018 (see RECENT MEETINGS). Following discussion, CBA directed staff to draft regulatory changes to accomplish a fee increase and bring it back to the Board at the next meeting.

On January 18, 2018, the CPC recommended, and CBA voted to [approve](#), draft regulatory changes to section 70, Title 16 of the CCR, to increase the initial license fee and biennial renewal

fee from \$120 to \$250. CBA reviewed staff's analysis of its fund condition and determined that a fee increase is warranted. While CBA is spending within its budget, it does not have sufficient revenues to meet all of its anticipated enforcement and other expenditures. At this writing, DCA is reviewing the draft regulatory changes and at this writing, the documents have not been published for a 45-day comment period.

◆ *New CE Technical Subject Areas.* On January 18, 2018, the CPC discussed the final version of NASBA's changes to Article Three of its Model Rules for Continuing Professional Education, which NASBA finalized in October 2017.

Generally, section 87, Title 16 of the CCR, requires CPAs with active licenses to complete 80 hours of continuing education (CE) within the two-year period prior to license expiration in order to renew their license; CPAs who engage in the attest function must devote 24 of those 80 hours to courses in accounting and auditing. Licensees must complete a minimum of 50% of their 80 hours in so-called "technical subjects" identified in section 87(a)(2), and may complete no more than 50% of the required coursework in "non-technical subjects" identified in section 87(a)(3). Staff analyzed NASBA's changes and found that some of CBA's CE regulations are already consistent with them. After reviewing and discussing the changes, CBA decided to proceed with rulemaking to align some of CBA's regulations with NASBA's rule changes. Thus, CPC recommended that CBA staff draft proposed changes to amend section 87(a)(2) to add four new technical subject areas to the existing technical subject areas, and section 88(h) to increase the total hours of CE credit allowed for the renewal period from 25 percent to 50 percent for specified activities. CBA approved CPC's recommendation.

On March 22, 2018, CBA voted to [approve](#) staff's draft amendments to section 87(a)(2) to include business law, economics, management services, and statistics as technical subjects. CBA

also approved draft changes to section 88(h); this change increases from 25% to 50% the maximum credit allowable per renewal period for writing published articles, writing instructional materials for CE programs, writing questions for the Uniform CPA Examination, and performing a technical review of instructional materials for any CE program. CBA then directed staff to submit the draft changes to the DCA Director for review; at this writing, the documents have not been published for a 45-day comment period.

## Legislation

[SB 795 \(Galgiani\)](#), as amended January 10, 2018, would amend Business and Professions Code sections 5072 and 5096–5096.21 to extend the sunset date of the Board’s current “no notice, no fee” practice privilege program for one year (until January 1, 2020) (see MAJOR PROJECTS). The amendment to section 5096.21 would also extend the existence of MSG through January 1, 2020. Finally, the bill would add new section 5096.22, which would require out-of-state CPAs from states that CBA determined do not comply with NASBA’s “best practices” to provide notice to CBA and pay a fee before being able to practice public accountancy in California on a practice privilege.

On January 18, 2018, CBA’s Legislative Committee reported that the Senate Committee on Business, Professions and Economic Development amended the bill to only extend the “no notice, no fee” practice privilege program for one year, whereas the Board and the profession want the sunset date lifted entirely such that the program could continue indefinitely. CBA thus voted to support the bill if it is amended to make the current statutes permanent, rather than extending them by one year. *[A. held at Desk]*

[SB 1159 \(Moorlach\)](#), as amended on March 19, 2018, would amend section 5058.2 of the Business and Professions Code to exempt a CPA whose license is on inactive license and who is

a current member of the California Legislature or Congress from the requirement to place the term “inactive” after his/her CPA designation. This legislation follows unsuccessful attempts by Senator Moorlach and U.S. Representative Brad Sherman—both CPAs whose licenses are on inactive status, and who must append the term “inactive” when they use the CPA designation—to persuade CBA to make this change via the rulemaking process. [[23:1 CRLR 144](#)]

On January 18, 2018, CBA approved the proposed amendment language and directed staff to request that the legislature include it in a 2018 omnibus bill or seek an author to carry the bill. At the March 2018 meeting, the Legislative Committee informed the Board that the bill was not included in an omnibus bill, so Senator Moorlach decided to include the language in this bill. According to the Senator, the [purpose](#) of the bill is to “increase much needed CPA representation in the Legislature and Congress. [This bill] serves in the best interest of the public by increasing the likelihood of CPAs contributing their knowledge and expertise in the Legislatures or Congress, while giving ample protections to the public.” CBA voted to take a watch position on this bill, with public member Dan Jacobson voicing some opposition to it because he believes inactive CPAs should include the “inactive” designation so as not to confuse the public and to convey that they are not permitted to practice public accountancy. [*S. Appr*]

[SB 1492 \(Committee on Business, Professions and Economic Development\)](#), as introduced February 21, 2018, would amend Business and Professions Code section 5095, which requires CPAs who wish to sign reports on attest engagement to complete a minimum of 500 hours of experience in attest services. Section 5095(c) states that “an individual who qualified for licensure by meeting the requirements of section 5083 shall be deemed to have satisfied the requirements of this section.” Section 5083 was repealed in 2010, so this bill would repeal subsection (c).

The bill would also amend section 5130, which requires CBA to collect a fee from CPA applicants and states: “The board shall charge and collect a fee from each applicant for the certificate of certified public accountant. The fee shall accompany the application which must be made on a blank provided by the board.” This bill would replace the out-of-date term “blank” with “form,” which is more consistent with other areas of the Accountancy Act. *[S. BP&ED]*

## Recent Meetings

On November 16, 2017, CBA unanimously [elected](#) Michael M. Savoy, CPA, as President of CBA. In November 2014, Governor Brown appointed Savoy to CBA and his term expires on November 26, 2018. CBA also unanimously elected George Famalett, CPA, as Vice-President, and public member Mark Silverman, Esq., as Secretary/Treasurer.

On January 18, 2018, CBA unanimously [voted](#) to direct staff to seek an upgrade to the Executive Officer’s classification to level G. The max allowed salary has not changed since it set the salary of CBA’s current EO, Patti Bowers. As the EO’s responsibilities, as of 2008, have grown and become more complex in the last ten years, CBA believes an upgrade is warranted. CBA directed staff to draft a justification for the upgrade which details the complexity of the EO’s work related to its licensing and enforcement programs, and send it to DCA’s Human Resources Chief. That office and DCA’s Office of Board and Bureau Services will facilitate the request through the Business, Consumer Services, and Housing Agency, the Governor’s Office, and to CalHR for review and approval.

On March 22, 2018, CBA Information and Planning Officer Aaron Bone provided an overview of the Board’s 2014–15 sunset review in anticipation of the report that will be due to the legislature during the fall of 2018 for purposes of CBA’s 2018–19 sunset review. During the 2014–

15 sunset review, the legislature identified at least five issues on which it will expect updates: (1) CBA's peer review program; (2) disciplinary case management and timeframes; (3) permanent practice restrictions; (4) the reserve level in CBA's fund; and (5) consumer satisfaction surveys. CBA, and especially Enforcement Chief Dominic Franzella, discussed the need to hire more staff to meet CBA's needs in the future, as a potential new issue to include in the 2018 report.