

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

The 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 107,000 licensees. 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, which is 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, 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, which are legislatively established, 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 the applicants' 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.

On July 7, 2020, Governor Gavin Newsom [appointed](#) Zuhdia “Dee Dee” Owens as a CPA member of the Board. She has been a partner at KPMG LLP since 2015, where she was previously managing director and senior manager from 2007 to 2015.

HIGHLIGHTS

CBA Proposes Regulations to Implement AB 2138 and Amend its Disciplinary Guidelines

On May 8, 2020, CBA published [notice](#) of its intent to amend sections 98, 99, 99.1, and 99.2, Title 16 of the CCR relating to the denial, suspension, and revocation of a license issued by the Board, and the assessment of administrative penalties for violations of the Accountancy Act.

According to the [initial statement of reasons](#) this regulatory change will bring CBA into compliance with the provisions of [AB 2138 \(Chiu\) \(Chapter 995, Statutes of 2018\)](#), which became effective July 1, 2020, and requires boards to amend their existing regulations to specify, when considering the denial, suspension, or revocation of a license, whether a crime is substantially related to the qualifications, functions, or duties of the profession regulated, and to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license. The bill also permits certain boards, including CBA, to deny a license if “the applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the profession” being regulated.

Specifically, in addition to amending section 98 to update its Disciplinary Guidelines to reflect current law, CBA proposes to amend section 99 to clarify that it will consider the following factors when considering whether a crime or act of professional misconduct is substantially related to the accounting profession: the nature and gravity of the offense, the number of years elapsed since the date of the offense, and the nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed. CBA’s proposed amendments to the substantial relationship criteria also include language to consider “whether the crime or act of professional misconduct reflects a lack of sound professional or personal judgment relevant to the practice of public accountancy, regardless of whether financial harm occurred to a consumer.”

CBA also proposes to amend section 99.1 to add the following criteria to consider when evaluating rehabilitation of a licensee or the eligibility for a certificate or permit: the nature and extent of actual and potential consumer harm; the individual’s attitude toward his or her commission of the violations; the individual’s recognition of wrongdoing; the individual’s history of violations; the nature and extent to which the applicant or licensee has taken corrective action to ensure the violation will not recur; the nature and extent of restitution to consumers harmed by violations; and other aggravating or mitigating factors.

At its July 23, 2020 [meeting](#), staff presented CBA with the written comments received during the 45-day public comment period, and a [memo](#) with its proposed responses to each of the commenters. [Agenda item I.J]. According to staff, CBA received two written comments, one from an individual regarding personal issues, and one from community organization Roots and Rebound and Community Legal Services in East Palo Alto, on behalf of 20 separate organizations, which set forth five substantive comments with respect to the regulation. [See agenda item [I.J](#), [attachments 6 and 7](#)]. The Board voted to adopt staff’s recommendation to reject all of the public

comments, for the reasons stated in the memo, and authorized some minor amendments to the regulations, as suggested by the Business, Consumer Services, and Housing Agency.

Accordingly, on August 5, 2020, the Board [released modified text](#) to its proposed amendments to sections 98, 99, 99.1, and 99.2, for a 15-day comment period, expiring on August 20, 2020. Specifically, the Board proposes modifications to section 99.1 (rehabilitation criteria) to clarify its applicability to applicants and licensees, and to applicants who have completed their criminal sentence without a violation of parole or probation, compared with those applicants who had not. Additionally, the modified text removes the word “fiduciary” from section 99.2, and updates the Authority or Reference to replace section 480 of the Business and Professions Code with new section 5100.2 of the Business and Professions Code, in light of [AB 1521 \(Low\) \(Chapter 359, Statutes of 2019\)](#), which removed CBA from section 480 and added section 5100.2, specific to the CBA, which does not use the term fiduciary.

At this writing, the proposed regulations are pending review with the Business, Consumer Services and Housing Agency.

AB 1525, Providing Financial Services to the Cannabis Industry, Signed into Law

[AB 1525 \(Jones-Sawyer\)](#), as amended August 21, 2020, adds Chapter 24 (commencing with section 26260) to Division 10 of the Business and Professions Code to establish a safe harbor under California law for financial institutions and accountants that provide services to the cannabis industry. Specifically, as it relates to the accounting profession, new section 26260(d) provides that an individual or firm that practices public accounting pursuant to Chapter 1 of Division 3 of the Business and Professions Code “does not commit a crime under California law solely for

providing professional accounting services . . . to persons licensed to engage in commercial cannabis activity.”

At its September 26–27, 2019 [meeting](#), CBA voted to support a previous version of AB 1525 if amended to more expressly cover all of the Board’s licensees—including “public accountants, CPAs, accounting firms, and out-of-state individuals and firms authorized to practice pursuant to California’s mobility laws.” It submitted a [letter to the author](#), [Agenda Item X.B.3.e.; Attachment 2] setting forth CBA’s proposed amendment on September 26, 2019.

On January 16, 2020, the bills’ author amended AB 1525 to include the CBA’s proposed text, which was maintained until the bill was passed. On September 10, 2020, CBA sent a [letter of support](#) to Governor Newsom, requesting his signature on AB 1525.

Governor Newsom signed AB 1525 on September 29, 2020. (Chapter 270, Statutes of 2020).

CBA Contemplates National Association of State Boards of Accountancy’s Amendments to the Uniform Accountancy Act Model Rules

At its July 23, 2020 [meeting](#), [Agenda Item I.I], CBA considered the National Association of State Boards of Accountancy’s (NASBA) “exposure draft” of proposed amendments to the Uniform Accountancy Act (UAA) Model Rules. According to the [CPA Evolution Initiative](#)—a joint venture of NASBA and the American Institute of Certified Public Accountants (AICPA)—these amendments propose new education requirements for initial licensure of CPAs “to incorporate additional subjects and skills reflective of the evolving profession, and create more consistency” reflective of changes in the accounting industry. Citing the automation, outsourced labor, and the fact that paraprofessionals are now performing work traditionally done by CPAs,

the CPA Evolution Initiative’s website asserts that the market for CPAs demands more education and specialization, and states that its goal is to launch a new uniform licensing exam in January 2024 that reflects the evolution of the CPA profession.

According to CBA’s [staff memo](#) [Item I.I], NASBA developed the UAA Model Rules in 2004 to promote uniformity in the regulation of the accounting profession across various licensing jurisdictions. California uses the model rules for guidance but maintains its own regulatory framework for licensing CPAs in this state. The staff memo sets forth a detailed analysis of the proposed [education requirement revisions](#), and compares them with CBA’s existing statutes and regulations. For example, NASBA’s proposal would amend Model Rule 5-2(c) to require state boards to review applicant academic transcripts from all colleges and universities, regardless of their level of accreditation, as opposed to requiring only minimal review for transcripts from Level 1 accredited colleges or universities. But, as staff points out, CPA’s Licensing Division already reviews each applicant’s transcript.

NASBA’s additional proposed amendments include requiring specific coursework to develop “critical thinking” and “professional skepticism and judgment” skills; increasing minimum required accounting-related units from 24 to 27 or 30, with specific subject matter requirements including financial accounting and reporting for business organizations, financial statement auditing, taxation, and accounting information systems, among others.

After the detailed analysis, staff concluded that none of the proposed amendments were significantly different from CBA’s existing statutes or regulations such that the Board should consider seeking amendments at this time. Ultimately, the Board voted to adopt a neutral position on the proposed amendments, and submitted a [letter](#) [Agenda Item I.I; Attachment 4] to NASBA advising it of the Board’s neutrality, expressing support for NASBA’s efforts to revise the Model

Rules to encourage uniformity among education requirements for CPA licensure, and stating that NASBA’s interest in the uniform regulation of CPAs aligns with CBA’s mission to protect consumers because CBA regulations include a [practice privilege](#) which allows CPAs licensed in other states to practice accountancy in California, subject to qualifications.

According to a NASBA [press release](#), the NASBA Board of Directors voted to approve the proposed amendments to the model rules at its October 13, 2020 meeting. At this writing CBA has not undertaken any rulemaking or pursued any statutory changes as a result of the new rules.

MAJOR PUBLICATIONS

The following reports and studies have been conducted by or about CBA during this reporting period:

- [Annual Report – Fiscal Year 2018–2019](#), California Board of Accountancy, 2020 (provides an overview of CBA’s budget, outreach, enforcement, licensing activities, regulations, supported legislation and information technology from the fiscal year ending June 30, 2019).

RULEMAKING

The following is a status update on recent rulemaking proceedings that CBA has initiated:

- **Peer Review Reporting:** On November 22, 2019, the public comment period [expired](#) for [modified text](#) to amend section 45 of Title 16 of the CCR, which clarifies the reporting of peer reviews. [see 25:2 CRLR 80–81] At this writing, the proposed regulation is under review by the Department of Finance.
- **Obsolete Language:** On April 16, 2020, OAL [approved](#) CBA’s regulation to modify obsolete and outdated language of sections 7.1(c), 8, 70, 75.5, 87.6, and 89.1 of Title 16 of the CCR. The new regulations became effective on July 1, 2020. [See 25:2 CRLR 80–81]

- **Regulations to Implement [AB 2138 \(Chiu\)](#):** On May 8, 2020, CBA proposed regulations, and on August 5, 2020, released [modified text](#), to amend sections 98, 99, 99.1, and 99.2, of Title 16 of the CCR relating to: whether a crime is substantially related to the qualifications, functions, or duties of the profession regulated; the denial, suspension, and revocation of a license issued by the Board; and the assessment of administrative penalties for violations of the Accountancy Act. At this writing, the proposed regulations are pending review with the Business, Consumer Services and Housing Agency (see HIGHLIGHTS).

LEGISLATION

- **[AB 1525 \(Jones-Sawyer\)](#),** as amended August 21, 2020, adds Chapter 24 (commencing with section 26260) to Division 10 of the Business and Professions Code to establish a safe harbor under California law for financial institutions and accountants that provide services to the cannabis industry. Governor Newsom signed AB 1525 on September 29, 2020 (Chapter 270, Statutes of 2020) (see HIGHLIGHTS).

- **[AB 2267 \(Irwin\)](#),** as amended May 4, 2020, would have amended sections 5007, 5070, and 5070.5 of, and added sections 5009.5 and 5093.5 to, the Business and Professions Code to authorize CBA to admit an applicant to the CPA examination before the applicant completes certain education requirements. [*25:2 CRLR 81–82*] The bill died in the Assembly Committee on Business and Professions; however, CBA staff will attempt to have the language reintroduced in the 2021 legislative year. ([2020 CBA Fall Update-Newsletter](#), page 7).

The following additional bills, reported in Volume 25, No. 2 (Spring 2020), died in committee, were amended to remove content relevant to CBA, or otherwise failed to be enacted

during the 2019–2020 legislative session: [AB 2549 \(Salas\)](#), regarding temporary license fees from military spouses; and [AB 1140 \(Stone\)](#), regarding tax preparer disclosures.

LITIGATION

KPMG LLP Disciplinary Action. On November 2, 2020, CBA and California Attorney General Xavier Becerra [announced](#) a [stipulated settlement and disciplinary order](#) against KPMG LLP for violations of the Accountancy Act. Specifically, the Board sought disciplinary action against KPMG pursuant to sections 141 and 5100(*l*) of the Business and Professions Code in that it was disciplined by the federal Securities and Exchange Commission (SEC) as set forth in a June 17, 2019 [Order Instituting Public Administrative and Cease and Desist Proceedings](#), for two courses of misconduct. First, from 2015 to 2017, KPMG members, including CBA licensees, [improperly obtained and used confidential information](#) from the Public Company Accounting Oversight Board (PCAOB) to cheat on PCAOB’s annual inspections of KPMG audits. Second, many of KPMG’s CPAs, including CPAs licensed by CBA, cheated on continuing education exams by sharing answers.

KPMG admitted the truth of each and every charge and allegation by the CBA as set forth in Accusation No. AC-20202-41 (attached as Exhibit A to the order) and agreed to be bound by CBA’s probationary terms. CBA has suspended KPMG’s CPA Partnership Certificate for a period of 30 days; however, the suspension is stayed, and KPMG is on probation for three years with terms and conditions. In addition to fines imposed by the SEC, KPMG must pay CBA an administrative penalty in the amount of \$1,300,000, as well as up to \$50,000 for CBA’s costs of investigation, prosecution, and probation monitoring. KPMG has also been placed under strict review for the near future and is subject to mandated employee ethics training. In addition, the

U.S. Attorney's Office for the Southern District of New York [filed criminal charges](#) against six KPMG employees involved in the fraudulent audit inspection scheme.