

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 1.

CALIFORNIA BOARD OF ACCOUNTANCY

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Professional Ethics Exam and Continuing Education

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The CBA has not scheduled a public hearing on this proposed action. However, the CBA will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the CBA at its office no later than Tuesday, March 5, 2024, by 5:00 p.m.**, or must be received by the CBA at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 5010, 5018, and 5027 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 5018, 5027, 5028, 5082, 5092, and 5093, the CBA is considering amending sections 10 and 87.1 and adding section 10.1 to title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The CBA licenses, regulates, and investigates complaints against four different license categories in California, totaling approximately 114,000 licensees and registrants. These licensing categories include Public Accountant (PA), Certified Public Accountant (CPA), Accountancy Corporation (COR), and Accountancy Partnership (PAR). It is the CBA’s duty to enforce and administer the Accountancy Act Chapter 1 (commencing with section 5000) of Division 3 of the BPC. The CBA is authorized to establish necessary rules and regulations for the enforcement of the Accountancy Act and laws subject to its jurisdiction (BPC 5010).

The CBA's mission is to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards. One of the ways the CBA does this is by regulating entry and continuing practice in the profession by ensuring only those who are qualified are licensed to practice public accountancy.

BPC section 139 mandates the Department of Consumer Affairs to conduct periodic evaluations of all licensing examinations administered by its boards and bureaus and to develop a policy regarding examination development and validation, and occupational analysis.

CCR section 10 requires all CPA applicants to pass a CBA-approved examination in professional ethics no sooner than two years prior to the date on which they apply for licensure.

CCR section 87.1 describes the continuing education (CE) requirements for newly licensed CPAs. Currently, newly licensed CPAs are not required to complete any CE if their first expiration date is less than six months from their license issuance date.

CCR section 87.8 requires licensees who are renewing in an active status to complete a two-hour CBA-approved Regulatory Review course every six years.

CCR section 87.9 describes the requirements for a Regulatory Review course to be approved by the CBA.

The CBA requested that DCA's Office of Professional Examination Services (OPES) complete the required comprehensive review of the Uniform CPA Examination (CPA Exam) and the Professional Ethics Examination for Certified Public Accountants (PETH Exam) pursuant to BPC section 139. OPES issued its reports in June 2023, concluding that sufficient evidence was found to support the continued use of the CPA Exam as a licensure examination. OPES indicated they had concerns about the validity of using the PETH Exam for licensure decisions. Additionally, OPES found that approximately 87% of the PETH Exam was duplicative of the CPA Exam. The remaining 13% covered California-specific laws and regulations.

The CBA's proposal would address OPES's concerns about the validity of the PETH Exam for licensure decisions by eliminating the requirement for the PETH Exam prior to licensure. Additionally, the proposal would require newly licensed CPAs to complete a CBA-approved Regulatory Review CE course prior to their first license expiration date. This approach would address the California-specific laws and regulations that would not be covered with the elimination of the PETH Exam.

This would require an amendment to CCR sections 10 and 87.1. Specifically, the proposal would do the following:

Section 10

This section would be amended to phase out the PETH Exam as a licensure exam.

Section 10.1

This section would be added to allow individuals who have purchased the PETH Exam and not yet applied it to licensure to use a passing score on the PETH Exam to meet the Regulatory Review requirements for new licensees, as described below.

Section 87.1

This section would be amended to require newly licensed CPAs to complete a CBA-approved Regulatory Review course prior to their first license expiration date.

Anticipated Benefits of Proposal

Eliminating the PETH Exam requirement is supported by the OPES findings, eliminates a barrier to licensure that is not supported by evidence, and reduces applicant licensure costs. Currently, the Regulatory Review course is not required until six years after licensure. Requiring the Regulatory Review course prior to the first license expiration date would support the CBA's mission of consumer protection by providing important information for newly licensed CPAs engaged in the practice of public accountancy.

Evaluation of Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, the CBA has conducted a search of any similar regulations on these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The CBA anticipates one-time workload and costs to implement the regulations, including updating and posting the new requirements on the CBA's website, as well as informational outreach to stakeholders and training of CBA staff to aid in the transition.

The CBA estimates one-time workload costs of approximately \$5,000 to implement the proposed regulations. Any workload and costs are anticipated to be absorbed within existing resources.

The CBA does not anticipate any additional licensing workload or costs resulting from eliminating the PETH Exam pre-licensure requirement and adding the two-hour Regulatory Review CE course renewal licensure requirement as the CBA presently reviews all CE courses submitted for a CPA's license renewal.

In the event a CE provider opts to apply to the CBA for approval to provide the two-hour regulatory CE coursework, the CBA estimates total workload and costs of approximately \$3,500 per application. The CBA notes, notwithstanding the proposed regulations, the CBA would otherwise incur the estimated workload and costs for a course provider seeking CBA approval.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies

None

Cost to any Local Agency or School District for which Government Code Sections 17500 - 17630 Require Reimbursement

None

Mandate Imposed on Local Agencies or School Districts

None

Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard)

None

BUSINESS IMPACT ESTIMATES

The CBA has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This initial determination is based on the following facts/evidence/documents or testimony:

Currently, pre-licensure candidates are required to pass the PETH Exam, which is administered by CalCPA. Approximately 3,150 candidates pay \$175 to take the PETH Exam per year, which results in total annual costs to applicants of \$551,250.

Under this proposal, pre-licensure applicants will no longer be required to take the PETH Exam. The elimination of the PETH Exam will result in a revenue loss to CalCPA in the amount of \$551,250 annually. However, the CBA notes, in the event an individual opts to enroll in the two-hour Regulatory Review CE course offered by CalCPA, any lost revenues due to the elimination of the PETH Exam may be offset with CE course fees. However, the CBA does not have an estimate at this time.

The PETH Examination is a California-specific requirement and will not impact the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business (Must be consistent with Business Impact Estimate and Form 399)

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the CBA include:

Currently, pre-licensure candidates are required to pass the PETH Exam, which is administered by CalCPA. Approximately 3,150 candidates pay \$175 to take the PETH Exam per year, which results in total annual costs to applicants of \$551,250.

Under this proposal, pre-licensure applicants will no longer be required to take the PETH Exam. Instead, once an applicant is licensed as a CPA, they will be required to complete a two-hour Regulatory Review CE course by their first license renewal. The average cost of a Regulatory Review CE course is \$50, resulting in total annual costs to applicants of \$157,500.

To assist those who have purchased the PETH Exam and are not able to use it to meet their licensure requirements before the elimination, the CBA has proposed a two-year transition period to allow completion of the PETH Exam to count towards two hours of technical CE for their first license renewal.

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS

The Board has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the state. The Board made this determination because the proposed regulation does not impose any new requirements or restrictions that would affect the creation or elimination of jobs within the state.

The Board has determined that the proposed regulatory action will not affect the creation of new businesses or the elimination of existing businesses within the state. The Board made this determination because the proposed regulation does not impose any new requirements or restrictions that would affect the creation of new businesses or elimination of existing businesses within the state.

The Board has determined that the proposed regulatory action will not affect the expansion of businesses currently doing business within the state. The Board made this determination because the proposed regulation does not impose any new requirements or restrictions that would affect the expansion of businesses within the state.

The Board has determined that the proposed regulatory action will not benefit the health of welfare of California's residents, worker safety, and the state's environment because is limited to the Board's pre-licensing requirements.

Benefits of Regulation

This regulatory proposal is intended to maintain consumer protection and professional standards by streamlining pre-licensure requirements and reducing barriers to licensure, while also helping to ensure the CBA's CE requirements are robust and thorough.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the CBA.

Effect on Small Business

The proposed regulation will have no effect on small businesses because it creates no new requirements or restrictions.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the CBA must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the CBA in writing relevant to the above determinations at 2450 Venture Oaks Way, Suite 300, Sacramento, CA 95833 or by sending an email to Regulations@cba.ca.gov during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The CBA has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the CBA at 2450 Venture Oaks Way, Suite 300, Sacramento, CA 95833 or via email at Regulations@cba.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the CBA, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be

available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Sarah Benedict
Address: 2450 Venture Oaks Way, Suite 300
Sacramento, CA 95833
Telephone No.: 916-809-4028
Fax No.: 916-263-3673
E-Mail Address: Regulations@cba.ca.gov

The backup contact person is:

Name: Matthew Parsons
Address: 2450 Venture Oaks Way, Suite 300
Sacramento, CA 95833
Telephone No.: 279-236-3091
Fax No.: 916-263-3673
E-Mail Address: Regulations@cba.ca.gov

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the CBA's website at <https://www.dca.ca.gov/cba/about-cba/pending-regs.shtml>