



CALIFORNIA'S MOBILITY PROGRAM FOR ACCOUNTANCY—IMPLEMENTATION, ENFORCEMENT AND ITS CONSUMER BENEFITS



OUR MISSION

The mission of the California Board of Accountancy is to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards.



CALIFORNIA BOARD OF ACCOUNTANCY

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December 14, 2017

Senator Jerry Hill, Chairman
Senate Business, Professions and
Economic Development Committee
State Capitol, Room 2053
Sacramento, CA 95814

Assembly Member Evan Low, Chairman
Assembly Business and Professions
Committee
Legislative Office Building, Room 383
Sacramento, CA 95814

Dean R. Grafilo, Director
Department of Consumer Affairs
1625 North Market Blvd.
Sacramento, CA 95834

Dear Senator Hill, Assembly Member Low, and Director Grafilo:

On behalf of the Members of the California Board of Accountancy (CBA), I am pleased to provide you with the CBA's report in compliance with Business and Professions Code section 5096.21(f) titled *California's Mobility Program for Accountancy – Implementation, Enforcement and its Consumer Benefits*.

This report represents the culmination of a multi-year effort to effectively implement the provisions of the mobility program and assess the impact on consumers and licensees. The report benefited from the active involvement of numerous stakeholders, including licensees and consumers.

The CBA has firmly concluded that the mobility program that was enacted by the Legislature with the passage of Senate Bill 1405 (Chapter 411 of 2012 Statutes) meets the CBA's mission to protect consumers.

Sincerely,

A handwritten signature in black ink that reads 'Michael M. Savoy'. The signature is written in a cursive style.

Michael M. Savoy, CPA, President
California Board of Accountancy

c: Members, California Board of Accountancy
Patti Bowers, Executive Officer

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EXECUTIVE SUMMARY

Practice privilege has been a topic of considerable deliberation in California and by the California Board of Accountancy (CBA) for more than 15 years. As with most provisions enacted by the Legislature that affect the CBA, the primary consideration surrounding practice privilege is ensuring the CBA can effectively meet its legislative mandate of public protection.¹

The initial practice privilege provisions enacted by the Legislature in 2004, and those that took effect January 1, 2006, created a program that required out-of-state licensees to notify the CBA prior to practicing public accountancy in California and remit a fee within 30 days of notification. The practice privilege program relied on other states to maintain substantially equivalent licensure requirements so that others could reasonably rely on the standards under which individuals were licensed.²

Over time, practice privilege evolved nationally, eliminating the notice and fee requirement, creating instead, a no-notice, no-fee mobility program (mobility program). The Legislature implemented a mobility program for California in 2012 that took effect July 1, 2013. To ensure that the CBA could continue to meet its public protection mandate, the Legislature included several consumer protection elements in the enabling provisions and a sunset date so it could perform a thorough review of the provisions prior to making the mobility program permanent. While the mobility program continues to rely on other states' licensure requirements, it also places a strong emphasis on ensuring effective enforcement programs and practices for other states, increased consumer access to information through the Internet, and state-level oversight.

As part of the enabling statutes for the mobility program, specifically Business and Professions Code (BPC) section 5096.21(f) (see **Attachment 1**), the Legislature required the CBA to prepare a report to the relevant policy committees of the Legislature, Director of the Department of Consumer Affairs (DCA), and public that, at a minimum, explains in detail all of the following:

1. How the CBA has implemented the mobility program and whether the implementation is complete.
2. How other state boards of accountancy have addressed referrals to those boards from the CBA, the time frame in which those referrals were addressed, and the outcome of investigations conducted by those boards.
3. Whether the mobility program is, in the opinion of the CBA, more, less, or equivalent in the protection it affords the public compared to the prior practice privilege provisions.

As will be demonstrated by the information included in this report, after numerous meetings and extensive evaluation and analysis, the CBA has:

1. Completed the implementation of the mobility program.
2. Determined that states effectively addressed referrals made by the CBA in accordance with the states' enforcement practices that are equivalent to nationally established best practices.
3. Concluded that the mobility program is, at a minimum, equivalent to and in many respects exceeds the protection afforded to the public under the prior practice privilege provisions.

¹ Business and Profession Code section 5000.1 states, in part, “[p]rotection of the public shall be the highest priority of the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions.”

² These licensure requirements are commonly referred to as the 3 Es – Examination, Education, and Experience.

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HISTORY/BACKGROUND

The genesis of cross-border practice for California and the CBA began as part of the CBA's 2000 Sunset Review. During that period, the CBA reviewed its various statutes and regulations for conformity with the Uniform Accountancy Act (UAA). The UAA is developed jointly by the National Association of State Boards of Accountancy (NASBA)³ and the American Institute of CPAs as a model accountancy act.

Prior to the enactment of the original practice privilege provisions, out-of-state licensees that wanted or needed to practice in California were authorized to do so provided the practice was temporary and incidental.

“The CBA has concluded that the mobility program is, at a minimum, equivalent to and in many respects exceeds the protection afforded to the public under the prior practice privilege provisions.”

Under the prior temporary and incidental provision, out-of-state licensees and accounting firms lawfully practicing in another state could temporarily practice in California incident to their practice in another state provided that the licensees or accounting firms did not solicit California clients or assert or imply that they were licensed to practice public accountancy. Additionally, these out-of-state licensees and accounting firms were expressly prohibited from engaging in the development, implementation, and marketing to California consumers of any abusive tax avoidance transactions.

While the Legislature instituted express regulation of the temporary and incidental practice, the terms were never defined. Additionally, there was a movement occurring nationally to create a higher degree of substantial equivalency among states and increase the ability of licensees for cross-border practice.

To address issues related to the lack of definition to the term “temporary and incidental” and to allow for increased cross-border practice, the Legislature enacted the original practice privilege provisions with the passage of Senate Bill (SB) 1543 (Figueroa) (Chapter 921) in 2004. The law included an effective date of January 1, 2006. The delay to the effective date provided the CBA time to adopt necessary regulations to implement, interpret, and make specific various provisions of the law. Beginning on January 1, 2006, out-of-state licensees seeking to practice in California were required to notify the CBA by completing a notification form and paying a fee.

Shortly after implementation, concerns were raised by various stakeholders regarding the impact of the new law. Certain stakeholders maintained that the new provisions did not address work done by accounting firms. As is the case in the accounting profession, the work performed by licensees is done on behalf of the accounting firm. The new provisions did not allow for accounting firms to obtain practice privilege. Additionally, with the elimination of the temporary and incidental provisions, out-of-country accountants providing services for foreign-based clients were prohibited from practicing in California, unless they could qualify and obtain a practice privilege.

³ NASBA serves as a forum for the nation's boards of accountancy, which administer the Uniform CPA Examination, license over 650,000 certified public accountants, and regulate the practice of public accountancy in the United States. NASBA's mission is to enhance the effectiveness and advance the common interests of the boards of accountancy in meeting their regulatory responsibilities. NASBA promotes the exchange of information among boards of accountancy, serving the needs of all 50 states and the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

To address this issue, in 2006, the California Society of CPAs (CalCPA) sponsored Assembly Bill (AB) 1868 (Bermudez) (Chapter 458). AB 1868 was emergency legislation, which upon the Governor's signature (September 25, 2006), reinstated the temporary and incidental provisions (both for out-of-state CPAs and out-of-country accountants) and provided that accounting firms that did not have an office in California could work through the holder of a practice privilege. The measure also required the CBA to adopt emergency regulations to lower the practice privilege fee for out-of-state licensees not seeking the authority to sign reports on attest engagements.

Shortly after the passage of AB 1868, in 2007, the CBA sponsored legislation that would have adopted a mobility program similar to those being adopted nationally. The initial proposal was included in AB 2473 (Niello). This bill received considerable opposition and was eventually pulled from consideration prior to its first hearing in policy committee.

In 2012, the Legislature again broached the subject of mobility. This time CalCPA sponsored the legislation, which was included in SB 1405 (de León) (Chapter 411). SB 1405 was signed into law by the Governor in September 2012, with an effective date of July 1, 2013.

Since its enactment, the CBA has worked diligently to implement the mobility program created by SB 1405. This has included implementing the various provisions and, with the assistance of the Mobility Stakeholder Group, actively monitoring the effectiveness of the mobility program to ensure that it has met the expectations for stakeholders, including consumers and the accounting profession.

LEGISLATIVE HISTORY

Below is an overview of the previous bills that created and developed this area of law. The full Legislative Counsel's Digest and bill text can be found in **Attachment 2**.

SB 1543 (Chapter 921 of the 2004 Statutes)

This bill extended the CBA's sunset date and required out-of-state licensees to file a written notice and pay a fee to the CBA in order to obtain a practice privilege.

AB 1868 (Chapter 458 of the 2006 Statutes)

This bill extended the operative date of the then-practice privilege program and amended the program's fee provisions. In addition, the legislation stated that the notice and fee requirements to exercise a practice privilege in California do not apply to an individual with a valid and current license to practice public accountancy in another jurisdiction if their practice in California is temporary and incidental.

SB 1405 (Chapter 411 of 2012 Statutes)

This bill removed the notice and fee requirements and significantly amended the practice privilege program. The new practice privilege law, which went into effect on July 1, 2013, granted a practice privilege to out-of-state licensees who met certain requirements including holding a CPA license from a state that the CBA determined has substantially equivalent education, examination, and experience requirements to California. SB 1405 also contains a sunset provision that, absent new legislation, would cause the CBA to revert back to the previous practice privilege program with its notice and fee requirements.

SB 822 (Chapter 319 of 2013 Statutes)

This bill instituted a requirement that an out-of-state licensee, exercising a practice privilege in California, notify the CBA of pending criminal charges to allow

the CBA to initiate an investigation to determine whether there is immediate consumer harm. Also, the bill authorizes the CBA to issue citations to out-of-state licensees practicing in California under practice privilege.

SB 1467 (Chapter 600 of the 2014 Statutes)

This bill requires an individual who holds and exercises a practice privilege in California to notify the CBA of any pending criminal charges other than a minor traffic violation in writing within 30 days of the date the individual has knowledge of those charges.

AB 2560 (Chapter 302 of the 2016 Statutes)

This bill grants the CBA authority to adopt regulations on an emergency basis if the CBA determines that allowing individuals from a particular state to practice in California pursuant to a practice privilege would violate the CBA's duty to protect the public.

SB 547 (Chapter 429 of 2017 Statutes)

Beginning January 1, 2017, this bill grants the CBA authority to change the inoperative dates of its current and prior practice privilege regulations very rapidly, utilizing the rulemaking authority within the California Code of Regulations, Title 1, Division 1, Chapter 1, Article 2, Section 100. The CBA's current regulations sunset on January 1, 2019, which coincides with the sunset of the current program. This expedited regulatory authority will help ensure that the necessary regulations are in place to continue operation of a practice privilege program.

SB 795 (Galgiani, 2017) (Pending)

This bill is currently pending in the Senate Business, Professions, and Economic Development Committee. This bill would remove the sunset date for the current practice privilege program, thus making it permanent.

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IMPLEMENTATION OF THE MOBILITY PROGRAM

As with any new program, or one that has undergone significant changes, effective implementation is paramount to short- and long-term success. Recognizing the far-reaching impact SB 1405 would have on consumers, out-of-state licensees, and the CBA, activities associated with implementation of the mobility program began immediately.

Shortly after the bill passed and was signed into law, at its November 2012 meeting, the CBA examined and adopted a project outline designed to implement the mobility program. The CBA identified six main areas that it would need to address:

1. Rulemaking activities
2. Outreach
3. Website development
4. Reports to various stakeholders
5. Establishment of a stakeholder group
6. CBA determinations

RULEMAKING ACTIVITIES

While the enabling legislation included significant detail on the operations of the mobility program, the CBA needed to specify and define numerous areas of the law to ensure effective implementation. Recognizing there would be insufficient time to complete a standard rulemaking, which generally takes 12 to 14 months to finish, during the Legislature's consideration of SB 1405, the CBA requested that the author include language in the bill to allow for the CBA to adopt the initial regulations via an emergency rulemaking process. As a result, BPC section 5096.9(b) was added to SB 1405 that directed the CBA to adopt emergency regulations and the Office of Administrative Law (OAL) to consider the regulations necessary for the immediate preservation of the public peace, health and safety, or general welfare.

In November 2012, the CBA began discussing initial concepts for draft regulatory sections to implement the mobility program (**Attachment 3**, excerpts from the November 15-16, 2012 CBA meeting). The CBA discussed six concepts:

1. Substantial equivalency
2. Definitions
3. Practice privilege forms for individuals
4. Out-of-state accounting firms registration
5. Appeals
6. Response to CBA inquiries

Following its initial discussions in January 2013, the CBA adopted proposed regulatory text to promulgate seven new and two amended regulatory sections (**Attachment 4**, excerpts from the January 24-25, 2013 CBA meeting). These sections established substantially equivalent states, defined terms, created necessary forms, created renewal and reporting requirements for out-of-state accounting firms seeking registration to practice in California, established an appeals process, required a notification of intent to administratively suspend a practice privilege, and modified the CBA's Disciplinary Guidelines and Model Orders (Disciplinary Guidelines).

OAL approved the emergency regulations on June 10, 2013, with the effective date that coincided with the effective date of the new practice privilege provisions, July 1, 2013. Emergency regulations are only effective for 180 days (with two 90-day extensions); therefore, the CBA subsequently completed the regular rulemaking process, with OAL approving the regulations on December 18, 2013.

Since the original rulemaking activities, the CBA completed one additional rulemaking as a result of legislative amendments to the mobility program included in SB 822. As noted earlier in the report, SB 822 created a requirement for out-of-state licensees practicing via mobility to notify the CBA

of pending criminal charges. This is to allow the CBA the opportunity to initiate an investigation to determine whether immediate consumer harm existed, and also authorized the CBA to issue citations to out-of-state licensees practicing in California under the mobility program.

The CBA amended its regulations to create a form for the notification of pending criminal charges and, again, updated the CBA's Disciplinary Guidelines and Model Orders. OAL approved the amended regulations on August 3, 2015, with an effective date of October 1, 2015.

OUTREACH

The CBA recognizes that outreach is a key component to any major program changes.

The CBA took several proactive steps to ensure information related to the mobility program and website content was shared with all stakeholders. Below are efforts undertaken by the CBA to ensure a successful outreach.

- Issued the following press releases:
 - Upon signature of SB 1405 into law—September 2012.
 - Upon appointment of the initial membership of the Mobility Stakeholder Group—February 2014.
 - When the CBA issued its finding that the Guiding Principles of Enforcement met the CBA's enforcement practices—June 2015.
- Mailed letters to all those who had a practice privilege under the prior notice and fee program, which notified those individuals of the upcoming change in the program, namely the elimination of the notification and fee requirement—March 2013.
- Published multiple informational articles in the CBA's tri-annual *UPDATE* newsletter to notify CBA licensees, out-of-state licensees, and other stakeholders regarding the CBA's transition to the new mobility program.

- Developed and updated a practice privilege handbook to aid those in understanding the law and requirements for qualification—originally posted to the CBA website June 28, 2013; updated April 24, 2014, January 27, 2015, November 9, 2015, December 31, 2015, December 30, 2016, and April 10, 2017.
- Developed frequently asked questions—posted to the CBA website June 28, 2013.
- Updated its Consumer Assistance Booklet to include information regarding selecting an out-of-state licensee.
- Distributed content to the CBA's social media accounts and to those who subscribed to email updates of CBA activities.
- Distributed and posted to its website notices, agendas, and meeting materials for the Mobility Stakeholder Group.
- Attended NASBA Regional and Annual Conferences to communicate directly with other states regarding California's mobility program; emphasize the common goal of consumer protection regarding cross-border practice; and discuss the impact of adoption of Guiding Principles of Enforcement, including clarifying the CBA review of other states' enforcement programs.

WEBSITE DEVELOPMENT

One of the most impactful provisions the Legislature included in the mobility program focused on consumer access to information via online resources. SB 1405 included an entire section—BPC section 5096.20 (see **Attachment 1**)—that established minimum requirements for disclosure of information to consumers.

The CBA completed numerous and significant changes to its website that launched on July 1, 2013, to effectively implement requirements found in BPC section 5096.20, which included:

- The ability for consumers to search by name and state of licensure.

- The disclosure of information in the possession of the CBA, which the CBA is otherwise authorized to publicly disclose, about out-of-state licensees exercising a practice privilege in California, including but not limited to, whether the CBA has taken action of any form against the individual and, if so, what the action was or is.
- A disclaimer that consumers must click through prior to being referred to any other website, which explains that consumers are being referred to a website that is maintained by a regulatory agency or other entity that is not affiliated with the CBA. The disclaimer includes a link to relevant sections of the practice privilege provision that set forth disqualifying conditions.

“The CBA took several proactive steps to ensure information related to the mobility program and website content was shared with all stakeholders.”

- A statement that notifies consumers they are permitted to file complaints against practice privilege holders with the CBA.
- A link to the website or sites that the CBA determines provide consumers the most complete and reliable information available about out-of-state licensees’ status as a licensee.
- For states that do not maintain a website that allows consumers to obtain licensee information, including disciplinary history, and the information is not available on another entity’s website, the CBA must include contact information to the other state. The CBA must also include a disclaimer that explains that consumers are being referred to a board that does not permit consumers to obtain information, including but not limited

to, disciplinary history about individuals through the website, and that the board is not affiliated with the CBA.

- Information regarding out-of-state firms registered in California, including the issue and expiration date, and the status of their registration.

REPORT TO VARIOUS STAKEHOLDERS

SB 1405 required the CBA to report on activities associated with the mobility program to various stakeholders, including this final report. The bill required the CBA to issue a report to the relevant policy committees of the Legislature, Director of DCA, and public regarding preliminary determinations required by BPC section 5096.20. The CBA issued its preliminary report titled *Practice Privilege: Preliminary Determinations Report, July 1, 2015* on June 24, 2015 (**Attachment 5**).

In addition to the required report established in SB 1405, the MSG issued four reports from 2014–2017 that chronicled the work it completed in the oversight of the mobility program (**Attachment 6**). These reports focused on activities performed by the MSG, with an emphasis on ensuring the new mobility program met the CBA’s duty to protect the public and that the program met the objectives of stakeholders of the accounting profession, including consumers.

ESTABLISHMENT OF A STAKEHOLDER GROUP

Pursuant to BPC section 5096.21(e), the CBA was required to convene a stakeholder group to consider whether the new mobility program is consistent with the CBA’s duty to protect the public. The roles and responsibilities, as defined by the law and CBA, are as follows:

- Adopt policies and procedures relative to how it will conduct its business, including but not

limited to, policies and procedures addressing periodic reporting of its findings to the CBA.

- Consider whether the practice privilege provisions are consistent with the CBA's duty to protect the public in accordance with BPC section 5000.1.
- Consider whether the mobility law satisfies the objectives of stakeholders of the accounting profession, including consumers.
- Prepare an Annual Report to the CBA highlighting its activities.

BPC section 5096.21(e) requires the stakeholder group to be composed of CBA members, CBA enforcement staff, and consumer and accounting profession representatives. In November 2013, the CBA took the following steps:

- Naming the group the Mobility Stakeholder Group (MSG).
- Composing the MSG with two CBA members, two representatives of the accounting profession, two consumer representatives, and one CBA Enforcement staff member.
- Directing the 2014 CBA President to appoint the CBA members, a Chair and Vice Chair, and to work with the Executive Officer to solicit members.

To help identify a large pool of possible appointees, the CBA worked with the Center for Public Interest Law, Consumer Federation of California, CalCPA, and the *Going Concern* and *Accounting Today* publications.

In February 2014, the initial MSG members were appointed, and the MSG held its first meeting on March 20, 2014. At that meeting, the MSG adopted a policy to maintain a decision matrix to track all of its decisions. The purpose for the decision matrix was to assist the MSG and staff in determining what activities had been accomplished and what decisions still remained for discussion.

At its first meeting, the MSG made three decisions that helped provide the framework for how and when future meetings would be conducted:

- The MSG will meet three times per year in conjunction with the March, July, and November CBA meetings. (This was later changed by the MSG to meet in conjunction with each CBA meeting due to the volume and time sensitivity of the work that needed to occur.)
- The MSG will prepare a written report to the CBA at least once per calendar year.
- The MSG will prepare a final report in time to be considered by the CBA as it prepares its final report to the Legislature, which is due January 1, 2018.

Further details regarding the work of the MSG, including its duty to evaluate the disciplinary guidelines of other state jurisdictions is discussed later in the report.

CBA DETERMINATIONS

The Legislature required the CBA to make determinations regarding whether allowing licensees from other states to practice under the new mobility program violated the CBA's duty to protect the public. The determinations were based on the enforcement practices and disciplinary disclosure practices of other states.⁴

- In January 2016, the CBA made its initial determination, that 36 states were substantially equivalent.
- In November 2016, the CBA made its second determination, finding another nine states were substantially equivalent, bringing the total to 45.
- In July 2017, the CBA made its final determination, finding the remaining 10 states were substantially equivalent, bringing the total to 55.

⁴NASBA is comprised of 55 jurisdictions, of which California is included.

HOW OTHER STATES ADDRESS CBA REFERRALS, TIME FRAMES TO ADDRESS REFERRALS, OUTCOMES OF THEIR INVESTIGATIONS

BPC section 5096.21(a) requires the CBA make various determinations regarding allowing licensees from the other states to continue to exercise a practice privilege under the mobility program. The factors the CBA is required to use, at a minimum, as part of its determinations, focus on enforcement and disciplinary disclosures.

Specifically, BPC section 5096.21(b) sets the minimum factors to include:

1. Whether states in a timely manner and adequately address enforcement referrals by the CBA.
2. Whether the state makes disciplinary history of its licensees publically available.
3. Whether the state imposes discipline against licensees that is appropriate for the nature of the alleged misconduct.

BPC section 5096.21 also provides an alternative to performing these determinations. This alternative, included in subsection (c), focuses on evaluating states' enforcement practices against a national model of best practices, which NASBA was required to develop and which must meet or exceed the CBA's own enforcement practices. To meet this alternative, the following was required:

1. NASBA adopts enforcement best practice guidelines.
2. The CBA, upon a majority vote at a regularly scheduled board meeting, issues a finding after a public hearing that those practices meet or exceed the board's own enforcement practices.
3. A state has in place and is operating pursuant to enforcement practices substantially equivalent to the best practices guidelines.
4. Disciplinary history of a state's licensees is publically available through the Internet in a manner that allows the board to link consumers to a website to obtain information at least equal

to the information that was previously available to consumers through the practice privilege form filed by out-of-state licensees pursuant to former section 5096, as added by Chapter 921 of the Statutes of 2004.

While the mobility program has been in place since July 1, 2013, as will be more fully detailed in the report, NASBA's finalization of the enforcement best practices did not occur until mid-2015. Moreover, the states' adoption and implementation of substantially equivalent enforcement practices 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.

Therefore, for purposes of making the required determinations and to address this section of the report, the CBA used the alternative approach included in BPC section 5096.21 and outlined above. To facilitate this approach, the CBA evaluated and compared the "Guiding Principles of Enforcement" developed by NASBA and that established enforcement best practices on a national level, to the CBA's own enforcement practices; conducted a public hearing; selected NASBA to conduct research on states' enforcement practices; and performed state determinations.

GUIDING PRINCIPLES OF ENFORCEMENT AND COMPARISON TO THE CBA'S OWN ENFORCEMENT PRACTICES

In May 2015, the CBA and MSG held a joint meeting (**Attachment 7**, minutes of the Joint CBA and MSG meeting) to evaluate the Guiding Principles of Enforcement and to compare the Guiding Principles of Enforcement (**Attachment 8**) to the CBA Enforcement Program. As part of

its comparison, the CBA and MSG heard from executives from NASBA—Ken Bishop, President and Chief Executive Officer, Maria Caldwell, Chief Legal Counsel and Director of Compliance Services, Stacey Grooms, (former) Regulatory Affairs Manager—and the CBA’s Enforcement Chief.

The Guiding Principles of Enforcement are comprised of five main principles:

1. Time frames for prosecuting a complaint from intake to final disposition
2. Enforcement resources to adequately staff investigations
3. Case management
4. Disciplinary guidelines
5. Internet disclosure

Provided in the next five sections is a comparison of the CBA Enforcement Program and Guiding Principles of Enforcement, including the CBA’s evaluation regarding the substantial equivalency of the Guiding Principles of Enforcement to the CBA Enforcement Program.

TIME FRAMES FOR PROSECUTING A COMPLAINT FROM INTAKE TO FINAL DISPOSITION

Establishing effective time frames for any program provides clear expectations, increases transparency, promotes accountability, and provides a metric to evaluate effectiveness. The CBA Enforcement Program uses established time frames developed by DCA.

CBA Enforcement Program

Upon receipt of a complaint, the CBA Enforcement Program performs an initial evaluation to establish jurisdiction and a potential violation of the California Accountancy Act, CBA regulations, or both. The CBA Enforcement Program employs performance measures established by DCA.

Specifically, the CBA Enforcement Program maintains the following performance measures:

- a. Volume—Number of complaints and convictions received.
- b. Intake—Average cycle time from complaint receipt to the date the complaint was assigned to an investigator.
 - i. Target: 10 days
- c. Intake and Investigation—Average cycle time from complaint receipt to closure of the investigation process. (Does not include cases sent to the Office of the Attorney General (AG’s Office) or other forms of formal discipline.)
 - i. Target: 180 days
- d. Formal Discipline—Average number of days to complete the entire enforcement process for cases resulting in formal discipline.
 - i. Target: 540 days
- e. Probation Intake—Average number of days from monitor assignment to the date the monitor makes first contact with the probationer.
 - i. Target: 5 days
- f. Probation Violation Response—Average number of days from the date of the violation of probation to the date the assigned monitor initiates appropriate actions.
 - i. Target: 15 days

Guiding Principles of Enforcement

The Guiding Principles of Enforcement set out a process by which states should consider a new complaint. The complaint should be screened to determine the legal merit and whether the state has jurisdictional nexus on the matter. The Guiding Principles of Enforcement also call for the review of whether any discipline already issued by another agency (including a state board) was sufficient to address the violations or whether the alleged harm warrants additional enforcement action.

The Guiding Principles of Enforcement also set out benchmarks for the time frame for handling a complaint from intake through investigation, and any final disposition and probation violations. The Guiding Principles of Enforcement also note that justification of different target dates exist in light of legal and operational considerations for particular states.

The Guiding Principles of Enforcement contain the following target time frames:

- a. Decision to (i) close complaints for lack of legal merit or jurisdictional nexus or (ii) initiate an investigation.
 - i. Target: 7 days after expiration of time period for response with either receipt of all supporting documentation from parties or failure to respond, or at next scheduled board/complaint committee meeting.
- b. Assignment of investigator.
 - i. Target: 10 days from decision to initiate investigation.
- c. Completion of investigation.
 - i. Target: 180 days or less from initiation of complaint.
- d. Formal discipline at administrative level—final disposition.
 - i. Target: 540 days or less from initiation of complaint.
- e. Initiation of action (re-opening of complaint) or initiation of new complaint following probation violation.
 - i. Target: 15 days or next scheduled board/complaint committee meeting.

With respect to the time frames for prosecuting a complaint from intake to final disposition, the Guiding Principles of Enforcement are substantially equivalent to the CBA Enforcement Program. The principles provide specified time frames associated

with various outcomes during a complaint intake and investigation process.

California has determined that states have best practices that are substantially equivalent to the Guiding Principles of Enforcement and validated that states are actively using these practices.

ENFORCEMENT RESOURCES TO ADEQUATELY STAFF INVESTIGATIONS

Maintaining adequate resources is crucial to the success of any program, including an enforcement program. It is also crucial that enforcement programs continually review staffing levels and make necessary adjustments to ensure that they are meeting their required charge of public protection. Additionally, in assessing resources, programs must determine they have a wide range of individuals to assist in investigations, ensure adequate training, and have sufficient funding to effectively fund the program.

CBA Enforcement Program

The CBA Enforcement Program employs a mixture of both technical (Investigative CPAs or ICPAs) and non-technical (Enforcement Analysts) resources on staff to perform investigations. The technical staff conduct the most complex investigations, which include investigations related to professional standards, gross negligence, etc., while the nontechnical staff conduct the less complex investigations, which include investigations that are generally administrative in nature such as continuing education violations, unregistered accounting firms, practice without a permit, and unlicensed practice.

In those instances where the CBA Enforcement Program may not possess the necessary expertise to fully investigate a matter, the CBA engages outside expert consultants via a contract. Also, for certain matters, especially those related to unlicensed practice, the CBA engages DCA's Division of Investigations (DOI) to assist in handling a case. Certain staff within DOI have peace officer status.

The Legislature authorized the CBA's establishment of the Enforcement Advisory Committee (EAC). The EAC is authorized to act as an advisory committee and assist the CBA in its enforcement activities and consumer protection mandate by providing technical expertise, advice, and assistance related to the CBA's investigatory functions. The committee is comprised of CPAs working in the profession and practice in a broad range of services.

CBA management routinely evaluates staffing levels to ensure that each respective unit and division maintains the appropriate number of staff, assigned to the right positions, and at the right time. For the CBA Enforcement Program, management routinely evaluate their respective program needs, taking into consideration workload projections and any new programs that may be implemented.

In California, when evaluating most staffing workloads, to secure additional staffing resources, justifications are compiled using identified core tasks, duration of time to complete the tasks, and the number of staff assigned to the unit. These workload justifications look to identify overall workload and resource needs and identify any shortages and overages. As part of these justifications, CBA management includes projections for future-year workloads.

The CBA requires its staff performing investigations, whether ICPA or Enforcement Analyst, to attend two mandatory training seminars. The first training is a three-day seminar developed by The Counsel on Licensure, Enforcement and Regulation (CLEAR) titled "National Certified Investigator/Inspection Training—Basic Program." The seminar is an introductory training and certification program in investigations and inspection techniques and procedures. The seminar covers: professional conduct, principles of administrative law and the regulatory process, investigative process, principles of evidence, evidence collection, interview techniques, report writing, inspections and inspection procedures, and testifying.

The second mandatory training is completion of the DCA's Enforcement Academy. DCA's Enforcement Academy covers: an enforcement process overview, document and evidence gathering, compliance and field inspections/investigations, enforcement and disciplinary actions, and probation monitoring. The CBA also employs ad hoc training sessions.

To maintain current appointment to their position, the ICPAs must maintain an active license. This requires they complete a minimum of 80 hours of continuing education (CE) biennially. CE completed by the ICPAs is focused on maintaining and increasing their technical skills in the various areas of public practice.

Lastly, every year, management meets with staff to provide them with individual development plans designed to discuss performance evaluations and assist staff in career growth. This is a collaborative effort and oftentimes results in training and other activities that will assist staff in continuing to meet and exceed the job expectations and lay the foundation for future career goals.

As it relates to ensuring appropriate funding, especially for large-scale matters, the CBA operates as a special fund agency, with the vast majority of its funding coming from licensing fees. For fiscal year (FY) 2016/17, the CBA had an authorized budget of \$14,099,000. Approximately \$6.6 million, or 47 percent, was allocated to the CBA Enforcement Program.⁵

Furthermore, while the CBA must not expend funds in excess of its budgeted authority, the Legislature established in BPC section 5025.2 a unique provision that allows the CBA the ability to obtain an additional \$2 million in spending authority for litigation and enforcement activities in any given fiscal year.

⁵ For FY 2014/15, the CBA had actual expenditures in the Enforcement Program of \$5.6 million and for FY 2015/16 of \$6.3 million.

Guiding Principles of Enforcement

The Guiding Principles of Enforcement call for states to have appropriate resources to ensure a fair and efficient process. The guidelines state that the appropriate level of enforcement resources is commensurate with states' licensee population and the number of complaints typically handled by that jurisdiction. The Guiding Principles of Enforcement also include that states should routinely evaluate their staffing levels to ensure they have the appropriate number of staff and should evaluate program needs, taking into consideration workload projections and any new and anticipated workload over the coming years.

The Guiding Principles of Enforcement categorize the states into small (less than 10,000 licensees, 33 state boards), mid-sized (10,000–20,000 licensees, 13 state boards), and large (more than 20,000 licensees, nine state boards) jurisdictions. The Guiding Principles of Enforcement initially included the following ratios to aid in assessing adequate staffing levels:

- Ratio of licensees to investigators
 - Small jurisdictions—10,000:1
 - Mid-size jurisdictions—20,000:1
 - Large jurisdictions—30,000:1
- Ratio of investigators to open complaints
 - Small jurisdictions—1:90
 - Mid-size jurisdictions—1:125
 - Large jurisdictions—1:150

The Guiding Principles of Enforcement also initially highlighted that factors exist that warrant modification of the ratios, whether up or down. This would include the types of complaints state boards typically receive, a higher volume of administrative-type cases or practice-related cases, and the overall complexity of the types of cases.

The principles also include best practices for the qualifications and training of investigators. The Guiding Principles of Enforcement call on states to use a wide range of investigators from licensees, law enforcement, state board staff, or other individuals with accounting or investigative training. States should establish and follow a process for determining appropriate use of resources based on the type and nature of the case, and use subject matter experts for complex investigations involving highly technical areas and standards. The Guiding Principles of Enforcement include best practices to have investigators attend investigative training seminars and complete NASBA's Investigative Training Series.

Lastly, the Guiding Principles of Enforcement note that states should have access to funds in a timely manner to handle a case against a big firm. This could be accomplished through an appropriation process, the state board itself, the umbrella agency, or the prosecuting agency.

During the evaluation of this process, the CBA and MSG did not believe using the ratios outlined in the Guiding Principles of Enforcement provided an effective way to determine adequate staffing resources. They believed states should routinely review their respective workloads, regardless of licensee population size, and should base assessments of these workloads and any anticipated workload increases and decreases. States, similar to the steps taken by the CBA, should understand the identified core tasks to complete investigations, general duration of time to complete the tasks, and the number of staff presently assigned to handle investigations. Based on this evaluation, a board should determine if any overages or shortages in workload exists and seek to align staffing resources accordingly. As a result, the Guiding Principles of Enforcement were updated to use a methodology that was similar to that used by the CBA.

As it pertains to ensuring states maintain enforcement resources to adequately staff investigations, the Guiding Principles of Enforcement are substantially equivalent to the CBA Enforcement Program. The principles provide guidance on how states should evaluate staffing, ensure a wide range of investigative resources, and maintain necessary funding.

CASE MANAGEMENT

Proper case management creates consistency and efficiency in processing complaints and completing investigations. This includes assessing the need for a prioritization system, process of evaluating and investigating complaints, evaluating discipline by other agencies, and monitoring licensees placed on probation.

CBA Enforcement Program

The CBA Enforcement Program maintains a prioritization system based on the following categories:

- **High**—These are cases/complaints in which the CBA believes ongoing consumer harm is present and, therefore, the promptness of the investigation is paramount. It is as part of these cases/complaints that the CBA evaluates whether to seek an Interim Suspension Order or to recommend that the courts take action under Penal Code section 23.⁶
- **Standard**—These are cases/complaints that do not pose an immediate threat of harm to consumers, unlicensed activity not posing an immediate threat of harm to consumers, fraud, and making false/misleading statements, such as matters referred from outside sources.

- **Actionable**—These are cases/complaints with only minimal investigation necessary and generally result in the issuance of citations and fines. Examples of these types of cases/complaints include failing to respond to CBA inquires and CE deficiencies.

The CBA uses a consistent and comprehensive process for all investigations into violations of the California Accountancy Act and CBA regulations, whether administrative or practice-based in nature.

Complaint Intake

Complaints are received from consumers, professional societies, law enforcement agencies, other government agencies, and internal referrals from other programs of the CBA or from CBA committees. Staff also regularly monitors news and social media for information regarding licensees or unlicensed practice that may suggest violations of the California Accountancy Act and CBA regulations. The CBA requests that complaints be submitted in writing. A complaint form is posted on the CBA website and a paper copy is provided upon request. Complainants may also submit a letter identifying the name of the licensee who is the subject of the complaint and explaining the issues of concern.

Complaints are reviewed to establish jurisdiction and a potential violation of the California Accountancy Act, CBA regulations, or both. Nonjurisdictional complaints are closed and referred to back to the originating source or to the appropriate agency.

Investigative Process

Once jurisdiction has been established, the complaint is assigned for investigation. The less complex investigations are conducted by Enforcement Analysts and generally involve

⁶ Interim Suspension Orders allow for a board or administrative law judge (sitting alone) to issue an interim order suspending a licensee or imposing license restrictions, including but not limited to, mandatory biological fluid testing, supervision, or remedial training. Penal Code section 23 allows a board to make recommendations regarding specific conditions of probation, or provide any other assistance necessary to promote the interests of justice and protect the interests of the public, or may be ordered by the court to do so, if the crime charged is substantially related to the qualifications, functions, or duties of a licensee. This recommendation is made to the court.

unlicensed practice; CE deficiencies; criminal convictions; cancellation, suspension, revocation, or other right to practice as a CPA before any other governmental agency; and other administrative violations. The more complex investigations are conducted by ICPAs and generally involve issues such as gross negligence, repeated negligent acts, embezzlement, and nonconformity with professional standards.

On an as-needed basis, members from the EAC and expert consultants are used to provide technical assistance. Prior to referring matters to the AG's Office, an Investigative Hearing may be held where the licensee provides testimony under oath.

At the conclusion of the investigation, three outcomes are possible:

1. **Citation:** Pursuant to CBA Regulations section 95, a licensee may be issued a citation that may contain an order of abatement, an administrative fine, or both. The citation is in lieu of filing an Accusation. The fine amount cannot be less than \$100 or more than \$5,000. Additionally, pursuant to CBA Regulations section 87.5, a licensee may be ordered to complete CE that will contribute to the licensee's professional competence. The prescribed CE may be in addition to or as part of the 80 hours of CE required for license renewal. The vehicle for ordering the additional CE is a citation.
2. **Discipline:** A licensee may be disciplined for violating one or more of the causes listed in BPC section 5100. Discipline is initiated by the filing of a pleading by the Executive Officer. Generally, two types of pleadings are prepared:
 - 1) an Accusation to discipline licensees or
 - 2) a Statement of Issues to deny licensure to applicants. Once the pleading is prepared by the AG's Office, it is returned to the CBA for signature by the Executive Officer and served on the licensee/applicant.
3. **Closure:** Investigation is closed without enforcement action.

The CBA Enforcement Program routinely monitors disciplinary actions taken by other agencies. The CBA has subscribed to an email notification system for the Securities and Exchange Commission (SEC) that provides weekly updates on actions taken. The CBA also receives hard-copy notices of actions taken by the SEC and Public Company Accounting Oversight Board (PCAOB). As part of its participation in NASBA's Accountancy Licensee Database (ALD) and CPAverify, the CBA receives routine email notifications regarding action taken by other state boards of accountancy against licensees who maintain a license in California as well. Lastly, the CBA receives complaints from the Department of Labor (DOL) and American Institute of CPAs (AICPA) after action is taken by these respective agencies.

As it relates to probation monitoring, the CBA Enforcement Program maintains a comprehensive program for monitoring licensees placed on probation. This includes conducting in-person probation orientations, reviewing written quarterly reports, performing practice investigations (as needed), and monitoring compliance with the various terms and conditions included in any disciplinary order adopted by the CBA. The CBA Enforcement Program performs a risk assessment when licensees are placed on probation that takes into consideration the cause for discipline and the potential for future consumer harm or violation of probation.

If a probationer is found to be out of compliance with any terms of the probation, including but not limited to, submitting late certificates of completion for a CE requirement or restitution payments for investigation and prosecution costs, the licensee is notified in writing detailing the violation(s) and a deadline to bring the licensee into compliance with the terms of the probation. If a licensee has a pattern of repeated violations or a singular egregious violation, a decision may be made to file a petition to revoke the probationer's license.

Guiding Principles of Enforcement

The Guiding Principles of Enforcement indicate the need for a prioritization system could depend on the volume of complaints received by state boards. For states with low volumes, for example, one to three complaints annually, a prioritization system would not be necessary. For states with a high volume of complaints, a prioritization system would be necessary to adequately address all complaints and best allocate resources to achieve maximum consumer protection based on cases with the greatest harm to consumers.

The principles establish a two-prong system for managing cases—administrative complaints and practice complaints. Administrative complaints are defined as those matters of licensing deficiencies such as failure to renew in a timely manner or complete CE, improper accounting firm names, and those that generally pose a lesser threat to the public. Practice complaints are defined as those matters involving incompetence, dishonesty, violation of any rule of professional ethics or conduct, failing to complete an engagement in a timely manner, criminal convictions, breach of fiduciary duty or fraud, and disclosing confidential information. The Guiding Principles of Enforcement also establish a best practice for states to review discipline by other agencies such as the SEC, PCAOB, DOL, and the AICPA to determine whether the discipline should give rise to enforcement action by the state.

Lastly, the Guiding Principles of Enforcement include best practices for probation monitoring. The monitoring would include follow-up phone calls and correspondence with the licensee, require the licensee to appear in person at an interview/meeting to discuss compliance, submitting written quarterly reports, and allowing a practice investigation upon request by a state board.

In the area of case management, the Guiding Principles of Enforcement are substantially equivalent to the CBA Enforcement Program.

The principles provide states with guidance on assessing prioritization of complaints, investigating complaints, monitoring discipline by other agencies, and monitoring licensees on probation.

DISCIPLINARY GUIDELINES

In instances where enforcement action is necessary to protect the public, establishment of disciplinary guidelines provide transparency and expectations on possible outcomes for various types of violations. This aids in providing consistency in orders adopted by states and provides licensees and individuals who are part of states' enforcement processes a general understanding of the outcomes to expect.

CBA Enforcement Program

The Legislature requires the CBA, via BPC section 5116(c), to adopt regulations to establish criteria for assessing administrative penalties based upon factors, including but not limited to, actual and potential consumer harm, nature and severity of the violation, the role of the person in the violation, the person's ability to pay the administrative penalty, and the level of administrative penalty necessary to deter future violations of the California Accountancy Act.

To meet this requirement, the CBA has adopted disciplinary guidelines and model orders (Disciplinary Guidelines). The CBA's Disciplinary Guidelines are incorporated by reference in CBA Regulations section 98. As a general rule, the CBA evaluates its Disciplinary Guidelines once every three years.

The Disciplinary Guidelines are used by administrative law judges, attorneys, CBA licensees, and others involved in the CBA's disciplinary process. The recommended penalties and conditions of probation are merely guidelines, and the mitigating or aggravating circumstances and other factors may necessitate deviations.

For the Disciplinary Guidelines, the CBA evaluates the various California Accountancy Act and CBA Regulations code sections that licensees can potentially violate. For each code section, the CBA establishes minimum and maximum penalties, along with standard and optional probation terms when warranted. For many of the violations, the options range from correction of the violation/completion of CE to license revocation.

Guiding Principles of Enforcement

The Guiding Principles of Enforcement indicate states should have disciplinary guidelines and should strive to impose fair and consistent discipline against licensees who violate accountancy laws and rules. The disciplinary guidelines should recommend penalties and conditions of probation for specific statutes and rules violated. The disciplinary guidelines should also include aggravating and mitigating circumstances that could necessitate that state boards deviate from a recommended discipline. The Guiding Principles of Enforcement identified four major categories of offenses: Grounds for Revocation, Grounds for Suspension/Probation, Grounds for Monetary Fine/Penalty, and Grounds for Remediation.

With respect to disciplinary guidelines, the Guiding Principles of Enforcement are substantially equivalent to the CBA Enforcement Program. The principles note that states should establish guidelines that provide for consistency and transparency for matters that result in enforcement action.

With California having determined that states have best practices substantially equivalent to the Guiding Principles of Enforcement and validated that states are actively using these practices, the CBA is satisfied with the discipline states use in addressing referrals from the CBA.

INTERNET DISCLOSURE

Ensuring the public have access to licensee information is crucial to ensuring adequate consumer protection. Providing consumers easy access to licensees' information, including disciplinary history, allows them to make informed and educated decisions during the selection process.

CBA Enforcement Program

The CBA maintains robust Internet disclosure related to its licensee population via the License Lookup feature. The CBA License Look-Up feature includes individuals and accountancy firms licensed or registered by the CBA, and provides consumers the following information:

- Licensee/firm name
- Type of license
- License number and status
- Experience completed
- Expiration and issuance date
- Address of record
- Disciplinary actions/license restrictions

The CBA also actively participates in the ALD and CPAVerify (both of which are discussed in greater detail later in the report). The CBA provides ALD and CPAVerify final disciplinary information as part of its participation.

The CBA posts charging documents (Accusations), disciplinary actions/license restrictions (including the decision and order), and citations to its website. Consumers can access these items via multiple areas. Additionally, the CBA publishes all disciplinary actions in its triennial newsletter *UPDATE*. Finally, the CBA targets media outlets where licensees who were disciplined practice and issues press releases as an added measure to provide consumers with information.

Guiding Principles of Enforcement

The Guiding Principles of Enforcement call for disclosures to be of sufficient detail so consumers are able to make informed judgments about whether discipline poses a risk to them or is indicative of a prior problem relevant to the services they are considering retaining from the CPA. The principles note that Internet disclosure elicits confidence in the state board's operation and promotes transparency and accountability about the performance of an important state government agency. The Guiding Principles of Enforcement encourage states to participate in the ALD and CPAVerify platforms. They also note that states should publish final disciplinary action on their website, in a newsletter, or other available media with either specific information regarding the facts that caused the state to impose discipline or with sufficient information to allow consumers to contact the state board for particular details.

As it pertains to Internet disclosure, the Guiding Principles of Enforcement sought to meet the minimum requirements established by SB 1405. Therefore, the Guiding Principles of Enforcement focused on creating standards that created a flag so that consumers had access to how and where to find disciplinary information for licensees. As such, the CBA determined that the Guiding Principles of Enforcement met the standards established in law.

CBA PUBLIC HEARING

On May 28, 2015, the CBA conducted a public hearing on the Guiding Principles of Enforcement, as required by BPC section 5096.21(c)(2). Prior to the hearing, and after the Joint Meeting of the CBA and MSG, NASBA revised the Guiding Principles of Enforcement to remove the ratios in the section on adequate staffing resources originally included in guidelines.

At the public hearing, the CBA accepted the Guiding Principles of Enforcement as meeting the CBA's enforcement practices (see **Attachment 9**, excerpts from the May 28-29, 2015 meeting).

NASBA SELECTED TO CONDUCT RESEARCH ON OTHER STATES' ENFORCEMENT PRACTICES

With the CBA's acceptance of the Guiding Principles of Enforcement as having met the CBA's own enforcement practices, it needed to select an approach to compare other states' enforcement practices to the Guiding Principles of Enforcement. In order to ascertain whether states' enforcement practices are substantially equivalent to the Guiding Principles of Enforcement pursuant to BPC section 5096.21(c)(3), the CBA needed to compare the enforcement practices of other states, whether they followed those practices, and whether the practices were equivalent to the Guiding Principles of Enforcement.

The options considered by the CBA for conducting the research included contracting with a consultant, using CBA staff, engaging NASBA, or employing a combination of these options.

A number of factors were identified that the CBA considered as it selected the best approach to conducting the research:

- Different states have various governmental structures that are not the same as California's. For example, Licensing and Enforcement powers may be centralized (as in California), or they may be spread over multiple entities (as in New York).
- The knowledge and ability to provide all of the information required for this project may not reside with a single person at a board. The research process may involve a significant amount of time identifying the appropriate people with whom to talk.

- Before providing responses to any kind of survey, some states may require board or legal approval of the responses, resulting in delays in receiving information.
- Some states may be reluctant or legally unable to disclose certain needed information. The research data provided to the CBA during this project would be discussed at the CBA's public meetings and would be subject to requests made pursuant to the Public Records Act.

“The greatest impact of the California mobility program is the movement of states to adopt the provision of a disciplinary marker, either through CPAverify or states’ licensee look-up tool.”

After extensively evaluating the options available, the CBA selected NASBA to conduct the research. NASBA maintained (and continues to maintain) a long history of making substantial equivalency determinations regarding the education, examination, and experience requirements of the 55 jurisdictions under the UAA. The determinations impact licensing, reciprocity, and practice privileges among the various jurisdictions, allowing the states to rely upon a listing of jurisdictions whose licensing requirements have been reviewed for determinations of substantial equivalence to the guiding standards of the UAA. In addition, NASBA makes substantial equivalency determinations regularly regarding individuals’ initial, reciprocal, and practice privilege licensing evaluations for various boards.

NASBA also maintained access and established contacts with other states and had already obtained much of the needed information. In addition, NASBA typically receives a higher response rate to its inquiries than individual state boards. All these factors contributed to the CBA selecting NASBA to conduct this research.

DETERMINATIONS OF STATES’ ENFORCEMENT PRACTICES

In performing the research on states’ enforcement practices, NASBA relied in large part on data it previously gathered during the drafting of the Guiding Principles of Enforcement. In addition, NASBA surveyed each state board twice in 2015 and 2016. NASBA collected additional information through email, phone calls, and travel to meet with other states, to allow it to obtain sufficient information to make a determination of whether boards of accountancy enforcement practices are substantially equivalent to the Guiding Principles of Enforcement.

In order to encourage candor and open discussions with the states, NASBA honored the confidentiality of any direct communication with the states and retained the data collected during this process. NASBA used its Objectives for Substantial Equivalency Evaluation (**Attachment 10**) when reviewing the enforcement practices of each state.

NASBA communicated to the CBA that it recognized the enforcement practices of each state vary based on many factors specific to the particular state, such as number of licensees, number of complaints and cases, authority vested in the state board, delegation of certain phases of enforcement to other agencies, and interaction with an umbrella agency. Therefore, NASBA believed the review of states’ enforcement practices must be a subjective analysis of each state’s statutes, rules, and practices to decide whether, collectively, they create an enforcement practice that reflects the objectives of its

Guiding Principles of Enforcement. Following the analysis, NASBA determined each state's substantial equivalence to the Guiding Principles of Enforcement.

“Actions taken by NASBA and the other states as a result of the passage of California’s mobility program demonstrate a direct reflection of the positive impact the program had on increased consumer protection nationwide.”

NASBA provided CBA staff with the ability to review and perform an assessment of the results of the substantial equivalency determinations by meeting to collectively review states as identified by the CBA. This review included a summary prepared by NASBA of the specific enforcement practices in the selected jurisdictions and, when deemed necessary by CBA staff, a confidential review of the underlying documents used to make a particular determination at a meeting between NASBA and the state.

At the CBA January 2016 meeting, NASBA provided its initial assessment to the CBA and MSG. At that time, NASBA reported:

- Twenty-seven states (of which California was included) had enforcement practices that were substantially equivalent to the Guiding Principles of Enforcement and maintained the necessary discipline disclosure information on the Internet.
- Ten states had enforcement practices that were substantially equivalent to the Guiding Principles of Enforcement and did not maintain the necessary discipline disclosure information on the Internet.

- Eighteen states that had yet to be identified as being substantially equivalent to the Guiding Principles of Enforcement and did not maintain the necessary discipline disclosure information on the Internet.

Following its initial assessment in March 2016, NASBA reported to the CBA and MSG that:

- Twenty-nine states had enforcement practices that were substantially equivalent to the Guiding Principles of Enforcement and maintained the necessary discipline disclosure information on the Internet
- Fourteen states had enforcement practices that were substantially equivalent to the Guiding Principles of Enforcement and did not maintain the necessary discipline disclosure information on the Internet.
- Twelve states had yet to be identified as being substantially equivalent to the Guiding Principles of Enforcement and did not maintain the necessary discipline disclosure information on the Internet.

With a significant volume of states having been reviewed, the MSG discussed a framework for how staff should assess NASBA's findings. The CBA adopted the MSG recommendation to:

- Set the initial population to be reviewed at 43, which included states that NASBA determined to have enforcement practices substantially equivalent to the Guiding Principles of Enforcement.
- Review Internet disclosure concurrently.
- Establish an appropriate sample size.
- Conduct an initial assessment of information regarding Arizona and Washington.

In April 2016, CBA staff met with NASBA to conduct the assessment of Arizona and Washington. NASBA shared the process it employed and its results to review the enforcement practices of all the states, including Arizona and Washington.

Arizona and Washington provided NASBA with information about their processes including intake, review, prioritization, investigation, settlement, the presence or lack of Internet disclosure of licensee disciplinary information, formal hearings, and resolution for both administrative and practice complaints. CBA staff received descriptions of the enforcement practices in the summaries provided by NASBA and was provided the opportunity to review raw survey data. Due to the confidentiality requirements of the other state, staff did not retain or make copies of any raw survey responses.

The CBA and MSG discussed the review performed by staff at their May 2016 meetings. They then directed staff to assess the NASBA findings of five additional states—Colorado, Illinois, New York, Oregon, and Texas—following the same methodology. This created a sample size of 15 percent of the 43 states NASBA determined to be substantially equivalent to the Guiding Principles of Enforcement, which the CBA and MSG determined to be an appropriate sample size.

In July 2016, staff reported that it concurred with NASBA's findings. Additionally, NASBA reported to the CBA that 36 states were now deemed substantially equivalent to the Guiding Principles of Enforcement and that maintained the necessary discipline disclosure information on the Internet. As a result, the CBA, as recommended by the MSG, approved 36 states as substantially equivalent to the Guiding Principles of Enforcement.

NASBA provided updated findings in September 2016, at which time it informed the CBA and MSG that all states were deemed substantially equivalent to the NASBA Guidelines, but 11 states still lacked the necessary disciplinary disclosure requirement. Based on this update, the CBA and MSG directed staff to conduct another assessment of two additional states, Utah and Georgia, using the same methodology previously established.

In November 2016, staff reported that it concurred with NASBA's findings. Additionally, NASBA updated its findings to include 45 states that were both substantially equivalent to the Guiding Principles of Enforcement and had the necessary disciplinary disclosure. As a result, the CBA, as recommended by the MSG, approved an additional nine states as substantially equivalent (bringing the total number of approved states to 45).

In July 2017, NASBA reported its findings that the remaining states were all deemed substantially equivalent to the Guiding Principles of Enforcement and had the necessary disciplinary disclosure. Therefore, the CBA, as recommended by the MSG, approved the remaining nine states as substantially equivalent.

DISCLOSURE OF DISCIPLINARY INFORMATION

While it is of critical importance that states maintain and use substantially equivalent enforcement practices, it is also equally imperative the consumers have access to disciplinary information that resulted from any actions taken by states. For states to continue to operate under California's mobility program, they needed to make disciplinary history available on the Internet.

As noted earlier in the report, the Guiding Principles of Enforcement included a best practice for public disclosure of disciplinary information, but the provisions specifically required this element as well. As part of its state determinations, the CBA not only evaluated substantial equivalency to the Guiding Principles of Enforcement, but also the disclosure requirements. The CBA selected NASBA to evaluate the disclosure requirement concurrently with the substantial equivalency research.

The CBA also directed staff to verify the disclosure information for the states. Upon NASBA's first release of states it deemed as substantially equivalent to the Guiding Principles of Enforcement and that

maintained the necessary disciplinary disclosure information on the Internet, CBA staff verified the disclosures of the states.

This included determining if the states maintained the information on their respective websites or through CPAverify. As NASBA continued to report new states as meeting the substantial equivalency to the Guiding Principles of Enforcement and disciplinary disclosure information on the Internet, staff verified the states.

In addition, during the evaluation process, CBA staff selected a random state to verify its process—specifically, the Virginia Board of Accountancy. CBA staff spoke to its Enforcement Director, who stated that it was in the process of procuring a new database, and, at present, NASBA would update the state’s disciplinary actions monthly. CBA staff researched a licensee known to have been disciplined by the Virginia Board of Accountancy on CPAverify. CBA staff contacted the Virginia Board of Accountancy regarding the licensee and received a copy of the disciplinary action.

IMPACT OF THE GUIDING PRINCIPLES OF ENFORCEMENT ON CALIFORNIA’S MOBILITY PROGRAM AND NATIONALLY

Historically, a significant concern regarding a no-notice mobility program centered on reliance of other states’ enforcement programs. For mobility to work effectively, states must maintain a level of confidence that other states have the resources and ability to effectively regulate their licensee population.

The Guiding Principles of Enforcement have set a floor for minimum expectations regarding other state boards’ enforcement programs. As the CBA has determined that these principles are equivalent to

California’s own enforcement practices, this provides a greater level of assurance that California can rely on other states to effectively monitor and enforce their respective rules and regulations and provides a greater reliance on no-notice mobility.

Core to NASBA’s mission is encouraging states to employ best practices and bring increased uniformity to their rules, regulations, and enforcement practices. NASBA has informed the CBA that while it conducted its work with the various states to determine substantial equivalency with the Guiding Principles of Enforcement, many states demonstrated areas of enforcement and disclosure improvement, including:

- One state shared that it drastically increased the number of on-site, unannounced visits to confirm that revoked licensees are no longer practicing.
- One state was able to use California’s mobility law and need to maintain adequate enforcement resources to successfully request additional staff/ investigators from the Legislature.
- One state is using the list of factors, including mitigating and aggravating factors, in the Guiding Principles of Enforcement to add increased specificity to its own disciplinary guidelines.
- Several states have expressed interest in using CLEAR⁷ and the NASBA Investigator Training Series. Since June 2016, NASBA has identified 171 individual views of different modules within its Investigator Training Series and 14 states have represented taking advantage of the series to provide further training to their investigators, staff, or both.

It is also noteworthy that the NASBA Enforcement Resources Committee has added more tools to assist states in tracking probationary compliance, as several states expressed a desire during the interview process in using such tools if they were made available.

⁷ As noted earlier in the report, CLEAR is an introductory training and certification program in investigations and inspection techniques and procedures.

The greatest impact of the California mobility program is the movement of states to adopt the provision of a disciplinary marker, either through CPAverify or states' licensee look-up tool. When NASBA's initial review of jurisdictions was presented to the CBA in September 2015, 17 states were lacking disciplinary markers; now, all states maintain the required disciplinary marker.

Actions taken by NASBA and the other states as a result of the passage of California's mobility program demonstrate a direct reflection of the positive impact the program had on increased consumer protection nationwide.

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DUPLICATION PURPOSES.**

CALIFORNIA MOBILITY PROGRAM—EQUIVALENT, LESS, OR MORE PUBLIC PROTECTION THAN THE PRIOR PRACTICE PRIVILEGE PROGRAM

The Legislature has required the CBA to describe whether the mobility program is more, less, or equivalent in the protection it affords the public compared to the prior practice privilege provisions. Provided in this section is a summary of the differences between the present mobility program and prior practice privilege provisions, including the findings reached by the CBA regarding whether the consumer protection aspects of the present mobility program are less, more, or equivalent to the prior practice privilege provisions.

The eight areas covered are:

1. Minimum qualifications
2. Notification requirements
3. Term/expiration
4. Jurisdiction
5. Accounting firm registration
6. Consumer access to information
7. Enforcement
8. State-level oversight

MINIMUM QUALIFICATIONS

Under both the mobility program and prior practice privilege provisions, out-of-state licensees seeking to practice in California under a practice privilege must meet the following qualifications:

- Do not maintain a principal place of business in California.
- Hold a valid and current license, certificate, or permit to practice public accountancy from another jurisdiction.

- Satisfy one of the following three options:
 - Continually practice public accountancy as a CPA under a valid license issued by another state or jurisdiction for four of the last 10 years.
 - Have a license issued by a state or jurisdiction that the CBA determines to have met the education, examination, and experience requirements for licensure under BPC section 5093.
 - Individually possess the education, examination, and experience qualifications that have been determined by the CBA to have met the licensure requirements under BPC section 5093.
- Out-of-state CPAs wanting the authority to sign reports on attest engagements must meet the attest requirements prescribed in BPC section 5095.

CBA Finding

As the minimum qualifications remained unchanged from the prior practice privilege provisions to the present mobility program, the CBA concludes that the two are **equivalent**.

NOTIFICATION REQUIREMENTS

Under the present mobility program, the vast majority of out-of-state licensees are not required to notify the CBA prior to practicing public accountancy in California. Those out-of-state licensees who, in the last seven years immediately preceding the date they wish to practice in California, have had certain actions (e.g., subject of a final disciplinary action by a licensing agency, had an application for licensure denied, or been convicted of a crime) as identified in BPC section 5096 (i), are required to notify and seek written CBA approval prior to exercising a practice privilege.

Additionally, out-of-state licensees who have already begun exercising a practice privilege in California must immediately cease practicing, notify the CBA, and await written CBA approval prior to continuing practice if certain conditions apply as specified in BPC section 5096(e)(6-9) (e.g., convicted of a crime, disciplinary action by another state agency) (**Attachment 1**).

“The CBA finds the new mobility program offers more consumer protection when compared to the prior practice privilege provisions.”

Under the prior practice privilege provisions, all out-of-state licensees who wanted to practice in California via a practice privilege needed to complete and submit a notification form prior to practicing in California. Out-of-state licensees could complete the notification form online or submit a hard copy of the notification form via mail or facsimile. Out-of-state licensees also were required to cease practicing and provide written notification to the CBA if at any time they acquired a disqualifying condition.

CBA Finding

The CBA acknowledges that under the present mobility program it does receive less notification when compared to the prior practice privilege provisions. However, the mobility program does continue to require notification from licensees who have or acquire any disqualifications and receive permission to practice from the CBA. In addition, the Legislature put in other protective measures that counter the loss of the notice requirement. These include: increased consumer access to information nationally, especially as it relates to disciplinary history; minimum enforcement policies and practices used nationally to aid in consumer protection; and oversight performed by the MSG

to ensure the mobility program meets the CBA’s mandate of consumer protection.

Therefore, the CBA concludes that the present mobility program offers an **equivalent** level of consumer protection when compared to the prior practice privilege provisions.

TERM/EXPIRATION

Under the present mobility program, there is no expiration of the right to exercise a practice privilege. Out-of-state licensees who have cessation or pre-notification requirements, yet fail to adhere to notifying the CBA, face a one-year termination from practicing via practice privilege, with a minimum two-year revocation from practicing via a practice privilege if it is determined the failure to adhere was intentional.

Under the prior practice privilege provisions, the practice rights expired one year from the date the notification form was submitted online, postmarked via mail, or received via facsimile. The one-year term included any time the CBA spent reviewing any reported disqualifying conditions (whether reported prior to beginning practice or after practice commenced).

CBA Finding

While the prior practice privilege provisions did include an expiration date, it was still established on out-of-state licensees maintaining a valid and current license to practice in their respective home state. Therefore, if an out-of-state licensee fails to maintain a valid and active license—for example, the license expired or the license was revoked or suspended—the ability to practice in California would automatically cease.

As noted in the comparison of the minimum qualifications section earlier, the present mobility program continues to maintain a requirement that out-of-state licensees maintain a valid and current license to practice in their respective home state.

Although no specific expiration date of a practice privilege exists in the new mobility program, there is an inherent expiration to the term of practice during periods when licensees do not maintain a valid and current license to practice.

Given that the prior practice privilege provision and the new mobility program are predicated on out-of-state licensees maintaining a license that is valid and current to practice, and that the ability to practice in California ceases when the license is no longer valid, the CBA finds that the new mobility program and the prior practice privilege program are **equivalent**.

JURISDICTION

Under both the present mobility program and prior practice privilege provisions, out-of-state licensees:

- Consent to the personal and subject matter jurisdiction and disciplinary authority of the CBA and the courts of California.
- Shall comply with the practice privilege provisions, all CBA Regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state, and to any other laws and regulations applicable to licensees who practice under the practice privilege provisions.
- Shall not provide public accounting services in California from any office located in this state, except as an employee of an accounting firm registered in California.
- Are deemed to have appointed the regulatory agency of the state that issued the license as the agent on whom notices, subpoenas, or other process may be served in an action or proceeding.
- Shall cooperate with any CBA investigation or inquiry and respond in a timely manner to a CBA investigation, inquiry, request, notice, demand, or subpoena for information or documents and provide the CBA the identified information or documents in a timely manner.

Additionally, the CBA or Executive Officer may administratively suspend out-of-state licensees' right to practice via a practice privilege without prior notice or hearing. The purpose of the administrative suspension is for conducting a disciplinary investigation, proceeding, or inquiry concerning out-of-state licensees' representations made on any notices, competence, or qualifications to practice under a practice privilege, failure to respond to a CBA inquiry or request for information of documents in a timely manner, or under other conditions and circumstances provided by the CBA in regulation.

“As it pertains to the area of enforcement, the overall impact of the new mobility law cannot be overstated. The actions undertaken by NASBA and other states demonstrate a direct reflection of the enormous impact the mobility program has on increased consumer protection on a national scale.”

CBA Finding

As the jurisdictional authority remained unchanged from the prior practice privilege provisions to the present mobility program, the CBA concludes the two are **equivalent**.

ACCOUNTING FIRM REGISTRATION

Under the present mobility program, for many services, out-of-state accounting firms may work through an authorized practice privilege holder; however, a registration requirement exists for out-of-state accounting firms that intend to provide

the following services to California-headquartered entities:

- An audit or a review of a financial statement.
- A compilation of a financial statement when it is expected, or reasonably might be expected, that a third party will use the financial statement, and the compilation report does not disclose a lack of independence.
- An examination of prospective financial information.

Out-of-state accounting firms must submit a registration form to and obtain approval from the CBA prior to providing services. Additionally, the services must be performed by a qualified practice privilege holder.

The prior practice privilege provisions included a provision that an accounting firm could work through an authorized practice privilege holder. For an accounting firm to practice under this provision, as part of the notification form, out-of-state licensees were required to include the name of the accounting firm, its address and phone number, and federal taxpayer identification number.

CBA Finding

Under both the present mobility program and prior practice privilege provisions, out-of-state accounting firms are subject to the personal, subject matter, and disciplinary jurisdiction of the CBA with respect to practice in California.

What sets the mobility program apart is that now certain out-of-state accounting firms must register directly with the CBA prior to performing certain services for California-headquartered entities. This allows the CBA to have increased access to ownership and licensure information for out-of-state accounting firms that provide certain high-level services to California-headquartered entities.

This allows the CBA more ability in enforcement-related matters to “pierce the corporate veil” for out-of-state accounting firms. Furthermore, staff

can review ownership information for those out-of-state licensees to determine if any have disqualifying conditions that would prohibit them from practicing under the mobility program without first receiving authorization from the CBA. As such, the CBA believes the out-of-state accounting firm registration requirement included in the present mobility program offers **more public protection** compared to prior practice privilege provisions.

CONSUMER ACCESS TO INFORMATION

Whether a CPA prepares a client’s taxes, helps to create a roadmap for a client’s financial future, keeps a client’s books and prepares financial statements for a client’s business, audits a client’s financial statements, or any other of the numerous services a CPA provides, selecting the best CPA or accounting firm for a client’s needs is an important decision. In addition to relying on word-of-mouth from friends, family, and colleagues, access to licensing and disciplinary information about a CPA is crucial to the selection process.

For the present mobility program, the Legislature placed a strong emphasis on consumer access to information. This is seen specifically in the final two sections of the statutes, BPC sections 5096.20 and 5096.21. BPC section 5096.20 lays out minimum information consumers must have access to regarding out-of-state licensees. BPC section 5096.21 notes that for out-of-state licensees to continue to use the mobility program, the CBA must determine that their respective state meets minimum requirements relating to the availability of disciplinary information available through the Internet.

As detailed earlier in this report, one of the primary implementation components of the mobility program is website development. The CBA spent considerable time developing a user-friendly out-of-state licensee section to its website that met all the requirements spelled out by the Legislature in BPC section 5096.20. Additionally, as noted in the

TABLE 1 – CBA WEBSITE USAGE FOR WEBPAGES RELATED TO THE MOBILITY PROGRAM

WEBPAGE	2014	2015	2016*	2017 ⁸
Out-of-State Licensed CPA Search	12,360	7,961	6,630	3,463
Out-of-State Registered Firms	2,043	1,658	2,060	1,383
Practice Privilege Reporting	2,669	3,872	1,633	981
Practice Privilege Handbook	10,368	10,161	2,155	856

*Associated with the new CBA website launched in May 2016, certain usage data is unavailable. The statistics provided are an estimate based on available data.

preceding section, the CBA determined that all the states have disciplinary history publically available through the Internet in compliance with BPC section 5096.21.

In addition to California’s own website license look-up features, with the ever-increasing adoption of mobility nationally, NASBA developed web platforms to provide a one-stop shop for consumers and other states to obtain information regarding CPAs licensed throughout the country. NASBA launched ALD in 2005 and CPAVerify in 2011.

ALD is a central repository of present licensee and accounting firm information. NASBA

conceptualized ALD to assist states with their regulatory mission. Presently, 51 states participate in sharing licensee information with NASBA’s ALD. The system is free to states’ authorized staff.

NASBA created CPAVerify as a free online tool that allows the public access to licensee information nationwide. CPAVerify represents the first-ever single-source, national database of certified public accountants. On CPAVerify, consumers may obtain information regarding state of licensure, status of a license, when a license was issued and when it expires, and enforcement, noncompliance, or other disciplinary flags against a licensee.

TABLE 2 – CPAVERIFY ANALYTICS

CPAVERIFY	2014	2015	2016	2017 ⁹
Page Views	218,315	309,186	350,168	198,183

⁸ Data from January 1, 2017 to July 31, 2017.

⁹ Data from January 1, 2017 to July 31, 2017.

The CBA maintained an active role in the development and roll-out of ALD and CPAVerify. This included having CBA appointments to NASBA's standing ALD/CPAVerify committee who provided support in the development and ongoing operations of ALD and CPAVerify. The CBA has also actively participated in ALD and CPAVerify since NASBA originally launched the platforms. Lastly, as part of the CBA's out-of-state licensee look-up feature, the CPAVerify website maintains a prominent feature.

Under the prior practice privilege provisions, the CBA maintained information on those out-of-state licensees who used the notification process, which included their term of practice privilege and a link to their respective state of licensure. At that time, many states did not include disciplinary information or history regarding licensees, and NASBA's ALD and CPAVerify were in their infancies.

CBA Finding

The new mobility program offers **more public protection** when compared to the prior practice privilege provisions. The new mobility program places a strong emphasis on consumer access. Furthermore, the impacts of the Guiding Principles of Enforcement and access to enforcement-related information through disclosure of disciplinary information via the various states' websites, CPAVerify, or both have increased available information to consumers.

ENFORCEMENT

Ensuring effective enforcement programs and practices for other states has long been an area of attention with respect to cross-border practice and mobility. As has been communicated in the report, the Legislature has established requirements that necessitate the CBA to undertake a thorough and comprehensive review of other states' enforcement programs to ensure consumers are appropriately protected under the mobility program.

As discussed in great deal in the section "How Other States Address CBA Referrals, Time Frames to Address Referrals, Outcomes of Their Investigations," the CBA performed an extensive review of other states' enforcement programs and practices in comparison to the Guiding Principles of Enforcement. This review resulted in the CBA determining other states maintain enforcement programs and practices that meet minimum expectations and that the states are operating under their respective practices.

"The new mobility program places a strong emphasis on consumer access."

CBA Finding

The CBA finds the new mobility program offers **more consumer protection** when compared to the prior practice privilege provisions. The new mobility program required the CBA to undertake a significant review of other states' enforcement programs. Further, the California mobility law acted as a catalyst to have NASBA establish benchmarks (through the Guiding Principles of Enforcement) and have other states implement substantially equivalent enforcement programs and practices, thereby creating effective enforcement programs on a national level.

As it pertains to the area of enforcement, the overall impact of the new mobility law cannot be overstated. The actions undertaken by NASBA and other states demonstrate a direct reflection of the enormous impact the mobility program has on increased consumer protection on a national scale.

STATE-LEVEL OVERSIGHT

As highlighted in the report, under the present mobility program, the Legislature required the CBA to convene a stakeholder group to consider:

- Whether the no-notice, no-fee practice privilege provisions are consistent with the CBA's duty of public protection.
- Whether the no-notice, no-fee practice privilege provisions satisfy the objectives of stakeholders of the accounting profession in this state, including consumers.

The Legislature defined the membership of the stakeholder group, which became known as the Mobility Stakeholder Group, or MSG, to include CBA members, CBA enforcement staff, representatives of the accounting profession, and consumer representatives.¹⁰

The MSG held its inaugural meeting on March 24, 2014, and has met 18 times since. Below are some major activities and accomplishments of the MSG over the past four years.

2014

- Adopted a definition of stakeholders, which mirrors the CBA definition found in its 2013–2015 Strategic Plan: *Stakeholders include consumers, licensees, applicants, and professional organizations and groups that have a direct or indirect stake in the CBA because they can affect or be affected by the CBA's actions, objectives, and policies.*
- Discussed and provided its initial considerations on the consumer protection provisions included in BPC sections 5096 and 5096.1.

2015

- Continued its review of the consumer protection provisions included in the practice privilege statutes, specifically BPC sections 5096.2–5096.21.
- Reviewed the CBA's Practice Privilege Preliminary Determinations Report to the Legislature.
- Recommended the CBA issue a finding that NASBA's Enforcement Guidelines met the CBA's own enforcement practices.
- Recommended NASBA perform the research necessary to determine whether a state's enforcement program is substantially equivalent to Guiding Principles of Enforcement.
- Reviewed various NASBA activities and received status reports on NASBA's CPAverify website.

2016

- The major activities for the MSG during 2016 centered on evaluating information related to NASBA's determination regarding states substantial equivalency to the Guiding Principles of Enforcement and disclosure of disciplinary information on states' websites.
- The MSG established protocols for evaluating the assessments made by NASBA and eventually recommended the CBA approve 36 states as having substantially equivalent enforcement practices and the necessary disciplinary disclosures.
- The MSG reviewed various NASBA activities and received status reports on NASBA's CPAverify website.

¹⁰ Information regarding the composition, policies, and procedures of the MSG was provided earlier in the report.

2017

- The MSG continued its evaluation of states' substantial equivalency to the Guiding Principles of Enforcement and disclosure of disciplinary information, ultimately recommending to the CBA that 18 states be deemed as being substantially equivalent enforcement practices and having the necessary disciplinary disclosures. With the final recommendation for these 18 states, the MSG found all states as substantially equivalent enforcement practices and having the necessary disciplinary disclosures.
- The MSG reviewed various NASBA activities and received status reports on NASBA's CPAverify website.
- The MSG recommended to the CBA that the responsibilities inherent to the MSG continue and that the CBA determines a framework for how those responsibilities be delegated at a future time.

The MSG provides important state-level oversight to the mobility program. The MSG is dedicated and focused on ensuring the mobility program meets the CBA's consumer protection mandate and that the mobility program satisfied the objectives of stakeholders of the accounting profession in this state, including consumers. Given the composition of the MSG, it affords active participation by consumers and the accounting profession most affected by the mobility provisions.

The prior practice privilege provisions did not include any requirement related to state-level oversight through a committee, especially one so focused on ensuring the provisions in some way met the CBA's consumer protection mandate.

CBA Finding

The CBA firmly believes the state-level oversight, through the MSG, that the Legislature included in the new mobility program offers **more public protection** when compared to the prior practice privilege provisions. The MSG provided a comprehensive oversight function that met the Legislature's direction by both examining the public protections afforded by the present mobility provisions and ensuring that the mobility program satisfied the objectives of stakeholders of the accounting profession in this state, including consumers.

ENFORCEMENT STATISTICAL INFORMATION ON THE MOBILITY PROGRAM

The information provided in this section relates to CBA enforcement activities for the mobility program. Table 3 provides data from January 1, 2014, through July 31, 2017.

TABLE 3 – ENFORCEMENT STATISTICS ON THE MOBILITY PROGRAM					
ACTIVITIES	2014	2015	2016	2017 ¹¹	TOTALS
Pre-Notification Forms	1	2	2	0	5
Cessation Notification Forms	0	0	0	0	0
SEC Discipline Identified	33	27	36	8	104
PCAOB Discipline Identified	14	21	17	13	65
Out-of-State Accounting Firms Referred by Licensing Division	10	14	17	12	53
Out-of-State Accounting Firms - Denied	1	0	1	0	2
Complaints Received	7	11	11	0	29
Practice Privileges Revoked	0	0	0	4	4

¹¹ Data from January 1, 2017, to July 31, 2017.

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CONCLUSION

The California Board of Accountancy firmly concludes that the mobility program established by the Legislature with the passage of SB 1405, and that took effect July 1, 2013, meets its mission of consumer protection. The CBA has reached this conclusion based on the following:

- Out-of-state licensees must continue to meet minimum qualifications in order to practice in California.
- Out-of-state licensees with specified disqualifying conditions are restricted from practicing in California without receiving prior CBA approval.
- Out-of-state licensees must cease practice, notify the CBA, and await CBA approval to resume practice if they become subject to certain disqualifying conditions.

“The California Board of Accountancy firmly concludes that the mobility program established by the Legislature with the passage of SB 1405, and that took effect July 1, 2013, meets its mission of consumer protection.”

- Out-of-state licensees who practice in California under the practice privilege provisions are subject to the personal and subject matter jurisdiction and disciplinary authority of the CBA and courts of California.
- The CBA is authorized to administratively suspend the practice privileges of out-of-state licensees at any time to conduct a disciplinary investigation, inquire concerning the competence or qualifications to practice under practice privileges, and failure to respond to a CBA inquiry or request for information or documents.
- California’s mobility law acted as a catalyst whereby all states are now operating under consistent enforcement practices that meet those used by the CBA Enforcement Program. This standardization provides assurance to California, and all jurisdictions, that licensees practicing under the mobility program may be held accountable for violations of accounting laws that could harm consumers.
- Consumers have access to greater information on licensees. For California, consumers can access information on licensees who are prohibited from practicing. Additionally, consumers are provided links to an out-of-state licensee’s board website or to CPAVerify to obtain additional information regarding license status, license restrictions, and discipline. This information enables consumers to make informed decisions when selecting a practitioner. All states have information posted on either their website or in CPAVerify regarding any discipline taken against their licensees.
- States have increased the sharing of information. As licensees are able to practice in other states, often without providing notice or fee, it is imperative that all jurisdictions maintain open communication and, when necessary, share information about violations, complaints, enforcement action, and discipline. It is with this level of communication that licensees won’t “escape” possible discipline as a result of failing to practice pursuant to professional standards or for harming consumers.
- California’s practice privilege provisions have enabled increased services to consumers on a national basis. With the implementation of the mobility program, California licensees have more flexibility to engage in services outside of California; conversely, out-of-state licensees can provide services to their clients who reside in California.

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ATTACHMENT 1
**MOBILITY PROGRAM
STATUTES & REGULATIONS**

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DUPLICATION PURPOSES.**



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PRACTICE PRIVILEGE STATUTES

CALIFORNIA BUSINESS AND PROFESSIONS CODE

Division 3. Professions and Vocations Generally

Chapter 1. Accountants

Article 5.1. Practice Privileges

Section 5096. Practice Privilege General Requirements (Operative July 1, 2013; Repealed January 1, 2019)

(a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least 4 of the last 10 years.

(2) The individual has a license, certificate, or permit from a state that has been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure that have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) An individual who qualifies for the practice privilege under this section may engage in the practice of public accountancy in this state, and a notice, fee, or other requirement shall not be imposed on that individual by the board.

(d) An individual who qualifies for the practice privilege under this section may perform the following services only through a firm of certified public accountants that has obtained a registration from the board pursuant to Section 5096.12:

(1) An audit or review of a financial statement for an entity headquartered in California.

(2) A compilation of a financial statement when that person expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence for an entity headquartered in California.

(3) An examination of prospective financial information for an entity headquartered in California.

(e) An individual who holds a practice privilege under this article, and is exercising the practice privilege in California:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state, except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when the individual has met the examination and continuing education requirements of the state in which the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand, or subpoena for information or documents and timely provide to the board the identified information and documents.

(6) Shall cease exercising the practice privilege in this state if the regulatory agency in the state in which the individual's certificate, license, or permit was issued takes disciplinary action resulting in the suspension or revocation, including stayed suspension, stayed revocation, or probation of the individual's certificate, license, or permit, or takes other disciplinary action against the individual's certificate, license, or permit that arises from any of the following:

(A) Gross negligence, recklessness, or intentional wrongdoing relating to the practice of public accountancy.

(B) Fraud or misappropriation of funds.

(C) Preparation, publication, or dissemination of false, fraudulent, or materially incomplete or misleading financial statements, reports, or information.

(7) Shall cease exercising the practice privilege in this state if convicted in any jurisdiction of any crime involving dishonesty, including, but not limited to, embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(8) Shall cease exercising the practice privilege if the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board bars the individual from practicing before them.

(9) Shall cease exercising the practice privilege if any governmental body or agency suspends the right of the individual to practice before the body or agency.

(10) Shall report to the board in writing any pending criminal charges, other than for a minor traffic violation, in any jurisdiction within 30 days of the date the individual has knowledge of those charges.

(f) An individual who is required to cease practice pursuant to paragraphs (6) to (9), inclusive, of subdivision (e) shall notify the board within 15 calendar days, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until he or she has received from the board written permission to do so.

(g) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by subdivision (f) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or (f) shall, for a minimum of one year from the date the board learns there has been a violation of subdivision (e) or (f), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years.

(h) The board shall require an individual who provides notice to the board pursuant to subdivision (f) to cease the practice of public accountancy in this state until the board provides the individual with written permission to resume the practice of public accountancy in this state.

(i) (1) An individual to whom, within the last seven years immediately preceding the date on which he or she wishes to practice in this state, any of the following criteria apply, shall notify the board, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until the board provides the individual with written permission to do so:

(A) He or she has been the subject of any final disciplinary action by the licensing or disciplinary authority of any other jurisdiction with respect to any professional license or has any charges of professional misconduct pending against him or her in any other jurisdiction.

(B) He or she has had his or her license in another jurisdiction reinstated after a suspension or revocation of the license.

(C) He or she has been denied issuance or renewal of a professional license or certificate in any other jurisdiction for any reason other than an inadvertent administrative error.

(D) He or she has been convicted of a crime or is subject to pending criminal charges in any jurisdiction other than a minor traffic violation.

(E) He or she has otherwise acquired a disqualifying condition as described in subdivision (a) of Section 5096.2.

(2) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by paragraph (1) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or paragraph (1) shall, for a minimum of one year from the date the board knows there

has been a violation of subdivision (e) or paragraph (1), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual shall be prohibited from practicing in this state in the same manner as if a licensee has his or her practice privilege revoked and there shall be no possibility of reinstatement for a minimum of two years.

(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

Section 5096.1. Practice Without Notice (Operative July 1, 2013; Repealed January 1, 2019)

(a) Any individual, not a licensee of this state, who is engaged in any act which is the practice of public accountancy in this state, and who does not qualify to practice pursuant to the practice privilege described in Section 5096 and who has a license, certificate, or other authority to engage in the practice of public accountancy in any other state, regardless of whether active, inactive, suspended, or subject to renewal on payment of a fee or completion of an educational or ethics requirement, is:

(1) Deemed to be practicing public accountancy unlawfully in this state.

(2) Subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state to the same extent as a holder of a valid practice privilege.

(3) Deemed to have appointed the regulatory agency of the state that issued the individual's certificate or license as the individual's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(b) The board may revoke a practice privilege from any individual who has violated this section or implementing regulations or committed any act which would be grounds for discipline against the holder of a practice privilege.

(c) This section shall become operative on July 1, 2013.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

5096.2. Denial of a Practice Privilege (Operative July 1, 2013)

(a) (1) Practice privileges may be revoked for any of the following reasons:

(A) If an individual no longer qualifies under, or complies with, the provisions of this article, including, but not limited to, Section 5096, or implementing regulations.

(B) If an individual commits any act that if committed by an applicant for licensure would be grounds for denial of a license under Section 480.

(C) If an individual commits any act that if committed by a licensee would be grounds for discipline under Section 5100.

(D) If an individual commits any act outside of this state that would be a violation if committed within this state.

- (E) If an individual acquires at any time, while exercising the practice privilege, any disqualifying condition under paragraph (2).
- (2) Disqualifying conditions include:
- (A) Conviction of any crime other than a minor traffic violation.
 - (B) Revocation, suspension, denial, surrender, or other discipline or sanctions involving any license, permit, registration, certificate, or other authority to practice any profession in this or any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board.
 - (C) Any judgment or arbitration award against the individual involving the professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or greater.
 - (D) Any other conditions as specified by the board in regulation.
- (3) The board may adopt regulations exempting specified minor occurrences of the conditions listed in subparagraph (B) of paragraph (2) from being disqualifying conditions under this subdivision.
- (b) The board may revoke practice privileges using either of the following procedures:
- (1) Notifying the individual in writing of all of the following:
- (A) That the practice privilege is revoked.
 - (B) The reasons for revocation.
 - (C) The earliest date on which the individual may qualify for a practice privilege.
 - (D) That the individual has a right to appeal the notice and request a hearing under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) if a written notice of appeal and request for hearing is made within 60 days.
 - (E) That, if the individual does not submit a notice of appeal and request for hearing within 60 days, the board's action set forth in the notice shall become final.
- (2) Filing a statement of issues under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
- (c) An individual whose practice privilege has been revoked may only subsequently exercise the practice privilege upon application to the board for reinstatement of the practice privilege not less than one year after the effective date of the notice or decision revoking the practice privilege, unless a longer time period is specified in the notice or decision revoking the practice privilege.
- (d) Holders of practice privileges are subject to suspension, citations, fines, or other disciplinary actions for any conduct that would be grounds for discipline against a licensee of the board or for any conduct in violation of this article or regulations adopted thereunder.
- (e) The board may recover its costs pursuant to Section 5107 as part of any disciplinary proceeding against the holder of a practice privilege.
- (f) The provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board, shall apply under this article.

(g) If the board revokes or otherwise limits an individual's practice privilege, the board shall promptly notify the regulatory agency of the state or states in which the individual is licensed, and the United States Securities and Exchange Commission, the Public Company Accounting Oversight Board, and the National Association of State Boards of Accountancy.

(h) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

5096.4. Administrative Suspension of a Practice Privilege (Operative July 1, 2013; Repealed January 1, 2019)

(a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation. The board shall consult the Public Company Accounting Oversight Board and the United States Securities and Exchange Commission at least once every six months to identify out-of-state licensees who may have disqualifying conditions or who may be obliged to cease practice, and shall disclose, pursuant to this subdivision, whether those out-of-state licensees are lawfully permitted to exercise the privilege. Disclosure of this information shall not be considered discipline.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this article.

(c) The administrative suspension order shall contain the following:

(1) The reason for the suspension.

(2) A statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing.

(3) A statement that any appeal hearing will be conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the revocation of practice privileges.

(d) The burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state.

- (g) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for revocation or discipline of a practice privilege.
- (h) This section shall become operative on July 1, 2013.
- (i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

5096.5. Signing Attest Reports (Operative July 1, 2013; Repealed January 1, 2019)

- (a) Notwithstanding any other provision of this article, an individual may not sign any attest report pursuant to a practice privilege unless the individual meets the experience requirements of Section 5095.
- (b) This section shall become operative on July 1, 2013.
- (c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

5096.6. Delegation of Authority, Executive Officer (Operative July 1, 2013; Repealed January 1, 2019)

- (a) In addition to the authority otherwise provided for by this code, the board may delegate to the executive officer the authority to issue any notice or order provided for in this article and to act on behalf of the board, including, but not limited to, issuing an interim suspension order, subject to the right of the individual to timely appeal and request a hearing as provided for in this article.
- (b) This section shall become operative on July 1, 2013.
- (c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

5096.7. Definitions (Operative July 1, 2013; Repealed January 1, 2019)

- (a) Anywhere the term “license,” “licensee,” “permit,” or “certificate” is used in this chapter or Division 1.5 (commencing with Section 475), it shall include persons holding practice privileges under this article, unless otherwise inconsistent with the provisions of the article.
- (b) Anywhere the term “employee” is used in this article it shall include, but is not limited to, partners, shareholders, and other owners.
- (c) For purposes of this article, the term “license” includes certificate or permit.
- (d) This section shall become operative on July 1, 2013.
- (e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

5096.8. Investigation Authority

In addition to the authority otherwise provided by this code, all investigative powers of the board, including those delegated to the executive officer, shall apply to investigations concerning compliance with, or actual or potential violations of, the provisions of this article or implementing regulations, including, but not limited to, the

power to conduct investigations and hearings by the executive officer under Section 5103 and to issuance of subpoenas under Section 5108.

5096.9. Authority to Adopt Regulations

(a) The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this article.

(b) The board shall adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to establish policies, guidelines, and procedures to initially implement this article as it goes into effect on July 1, 2013. The adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State in accordance with the Administrative Procedure Act.

5096.12. Limited Firm Practice (Operative July 1, 2013; Repealed January 1, 2019)

(a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), issue a citation and fine pursuant to Section 125.9, or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) A firm that provides the services described in subdivision (d) of Section 5096 shall obtain a registration from the board.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

5096.20. Information on Out-of-State Licensees with Disqualifying Conditions

(a) To ensure that Californians are protected from out-of-state licensees with disqualifying conditions who may unlawfully attempt to practice in this state under a practice privilege, prior to July 1, 2013, the board shall add an out-of-state licensee feature to its license lookup tab of the home page of its Internet Web site that allows consumers to obtain information about an individual whose principal place of business is not in this state and who seeks to exercise a practice privilege in this state, that is at least equal to the information that was available to consumers through its home page prior to January 1, 2013, through the practice privilege form previously filed by out-of-state licensees pursuant to Section 5096, as added by Chapter 921 of the Statutes of 2004, and the regulations adopted thereunder. At minimum, these features shall include all of the following:

- (1) The ability of the consumer to search by name and state of licensure.
- (2) The disclosure of information in the possession of the board, which the board is otherwise authorized to publicly disclose, about an individual exercising a practice privilege in this state, including, but not limited to, whether the board has taken action of any form against that individual and, if so, what the action was or is.
- (3) A disclaimer that the consumer must click through prior to being referred to any other Internet Web site, which in plain language explains that the consumer is being referred to an Internet Web site that is maintained by a regulatory agency or other entity that is not affiliated with the board. This disclaimer shall include a link to relevant sections of this article that set forth disqualifying conditions, including, but not limited to, Section 5096.2.
- (4) A statement in plain language that notifies consumers that they are permitted to file complaints against such individuals with the board.
- (5) A link to the Internet Web site or sites that the board determines, in its discretion, provides the consumer the most complete and reliable information available about the individual's status as a license holder, permit holder, or certificate holder.
- (6) If the board of another state does not maintain an Internet Web site that allows a consumer to obtain information about its licensees including, but not limited to, disciplinary history, and that information is not available through a link to an Internet Web site maintained by another entity, a link to contact information for that board, which contains a disclaimer in plain language that explains that the consumer is being referred to a board that does not permit the consumer to obtain information, including, but not limited to, disciplinary history, about individuals through the Internet Web site, and that the out-of-state board is not affiliated with the board.

- (b) The board shall biennially survey the Internet Web sites and disclosure policies of other boards to ensure that its disclaimers are accurate.
- (c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

5096.21. Determination Regarding Out-of-State Practitioners

- (a)(1) On and after January 1, 2016, if the board determines, through a majority vote of the board at a regularly scheduled meeting, that allowing individuals from a particular state to practice in this state pursuant to a practice privilege as described in Section 5096, violates the board's duty to protect the public, pursuant to Section 5000.1, the board shall require, by regulation, out-of-state individuals licensed from that state, as a condition to exercising a practice privilege in this state, to file the notification form and pay the applicable fees as required by former Section 5096, as added by Chapter 921 of the Statutes of 2004, and regulations adopted thereunder.
- (2) The board may adopt emergency regulations, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), to implement this subdivision. The adoption of the regulations shall be deemed an emergency and necessary for the immediate

preservation of the public peace, health, safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code.

(b) The board shall, at minimum, consider the following factors in making the determination required by subdivision (a):

(1) Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.

(2) Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet Web site to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.

(3) Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

(c) Notwithstanding subdivision (a), if (1) the National Association of State Boards of Accountancy (NASBA) adopts enforcement best practices guidelines, (2) the board, upon a majority vote at a regularly scheduled board meeting, issues a finding after a public hearing that those practices meet or exceed the board's own enforcement practices, (3) a state has in place and is operating pursuant to enforcement practices substantially equivalent to the best practices guidelines, and (4) disciplinary history of a state's licensees is publicly available through the Internet in a manner that allows the board to link consumers to an Internet Web site to obtain information at least equal to the information that was previously available to consumers through the practice privilege form filed by out-of-state licensees pursuant to former Section 5096, as added by Chapter 921 of the Statutes of 2004, no practice privilege form shall be required to be filed by any licensee of that state as required by subdivision (a), nor shall the board be required to report on that state to the Legislature as required by subdivision (d).

(d)(1) The board shall report to the relevant policy committees of the Legislature, the director, and the public, upon request, preliminary determinations made pursuant to this section no later than July 1, 2015. The board shall, prior to January 1, 2016, and thereafter as it deems appropriate, review its determinations made pursuant to subdivision (b) to ensure that it is in compliance with this section.

(2) This subdivision shall become inoperative on July 1, 2017, pursuant to Section 10231.5 of the Government Code.

(e) On or before July 1, 2014, the board shall convene a stakeholder group consisting of members of the board, board enforcement staff, and representatives of the accounting profession and consumer representatives to consider whether the provisions of this article are consistent with the board's duty to protect the public consistent with Section 5000.1, and whether the provisions of this article satisfy the objectives of stakeholders of the accounting profession in this state, including consumers. The group, at its first meeting, shall adopt policies and procedures relative to how it will conduct its business, including, but not limited to, policies and procedures addressing periodic reporting of its findings to the board.

(f) On or before January 1, 2018, the board shall prepare a report to be provided to the relevant policy committees of the Legislature, the director, and the public, upon request, that, at minimum, explains in detail all of the following:

(1) How the board has implemented this article and whether implementation is complete.

(2) Whether this article is, in the opinion of the board, more, less, or equivalent in the protection it affords the public than its predecessor article.

(3) Describes how other state boards of accountancy have addressed referrals to those boards from the board, the timeframe in which those referrals were addressed, and the outcome of investigations conducted by those boards.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

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DUPLICATION PURPOSES.**



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PRACTICE PRIVILEGE REGULATIONS

CALIFORNIA CODE OF REGULATIONS

Title 16. Professional and Vocational Regulations

Division 1. State Board of Accountancy

Article 3. Practice Privileges (Operative July 1, 2013 – December 30, 2018)

Section 18. Purpose of this Article and Definitions

(a) This article implements Article 5.1 of Chapter 1 of Division 3 of the Business and Professions Code related to practice privileges. This article shall become operative on July 1, 2013, and shall become inoperative on January 1, 2019.

(b) For the purposes of this article and Article 5.1 of Chapter 1 of Division 3 of the Business and Professions Code, the following definitions shall apply:

(1) "Minor traffic violation" shall mean traffic infractions under \$1000 not involving alcohol, dangerous drugs, or controlled substances.

(2) "Principal place of business" shall mean the office location designated by the licensee for the purposes of practice privilege.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.

Reference: Section 5096, Business and Professions Code.

Section 19. Practice Privilege Forms for Individuals

(a) An individual who is required to provide notification to the Board pursuant to Section 5096(i)(1) of the Business and Professions Code shall do so on the Practice Privilege Pre-Notification of Listed Events Form (PP-10 (1/13)), which is hereby incorporated by reference.

(b) An individual who is required to provide notification to the Board pursuant to Section 5096(f) of the Business and Professions Code shall do so on the Notification of Cessation of Practice Privilege Form (PP-11 (1/13)), which is hereby incorporated by reference.

(c) An individual applying for reinstatement of a practice privilege under Section 5096.2(c) of the Business and Professions Code shall do so on the Application for Reinstatement of Practice Privilege (PP-12 (1/13)), which is hereby incorporated by reference.

(d) An individual who is required to provide notification to the Board pursuant to Section 5096(e)(10) of the Business and Professions Code shall do so on the Practice Privilege Notification of Pending Criminal Charges (PP-15 (6/14)) form, which is hereby incorporated by reference.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.
Reference: Sections 5096 and 5096.2, Business and Professions Code.

Section 20. Registration Forms for Out-of-State Accounting Firms

(a) An out-of-state accounting firm organized and authorized to practice public accountancy under the laws of another state, as specified in Business and Professions Code Sections 5070 and 5035.3, that performs services pursuant to Business and Professions Code Section 5096.12(c), which requires the accounting firm to register with the Board, shall do so on the Out-of-State Accounting Firm Registration Form (PP-13 (1/13)), which is hereby incorporated by reference.

(b) (1) An out-of-state accounting firm registered by the Board pursuant to subdivision (a) shall renew its registration on the last day of the month in which the registration was initially approved by the Board every second year.

(2) The out-of-state accounting firm shall provide the following information at the time of renewal:

(A) Current contact information;

(B) Current license information from all states in which the firm is licensed including license number, expiration date and any enforcement actions taken against the license including the following:

(i) Pending disciplinary action such as an accusation filed;

(ii) Revocation or suspension, including stayed revocation or stayed suspension;

(iii) Probation or other limitation on practice ordered by a state board of accountancy, including any interim suspension order;

(iv) Temporary restraining order or other restriction on practice ordered by a court;

(v) Public letter of reprimand issued;

(vi) Infraction, citation, or fine imposed; or,

(vii) Any other enforcement related orders of a state board of accountancy; and

(C) An update of the ownership information that was originally reported on the Out-of-State Accounting Firm Registration Form (PP-13 (1/13)).

(3) An expired registration may be renewed at any time within five years after its expiration upon providing the information required in paragraph (2). A registration that is not renewed within five years following its expiration may not be renewed, and the registration shall be canceled immediately upon expiration of the five-year period. An out-of-state accounting firm with a registration that has cancelled pursuant to this paragraph may re-register pursuant to subdivision (a).

(c)(1) Each registered out-of-state accounting firm shall notify the Board of any change in its address of record within 30 days after the change. If the address of record is a post office box or mail drop, the change of address notification shall include the street address of the firm.

(2) Each registered out-of-state accounting firm shall notify the Board of any change in its ownership, as reported on the Out-of-State Accounting Firm Registration Form (PP-13 (1/13)), within 30 days after the change.

(3) For purposes of this section "registered firm" includes any firm registered by the Board pursuant to this section even if the registration is suspended or otherwise

subject to disciplinary action, provided the registration is not expired, canceled or revoked.

(4) All notifications required under this subdivision shall be in writing and shall be signed by an individual authorized by the registered firm to submit such notifications along with the individual's printed name and title, and a certification that the information is true and correct to the best of the individual's knowledge.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.
Reference: Section 5096.12, Business and Professions Code.

Section 21. Appeals

(a) Any individual practicing or wanting to practice under a practice privilege who wishes to contest an action taken by the Board or the Executive Officer under Section 5096(g), 5096(h), or 5096(i) of the Business and Professions Code may appeal such action to the Board. The appeal shall be filed within 15 days of the date of the action or written notification of the action from the Board. Two signed copies of the appeal shall be mailed or delivered to the office of the California Board of Accountancy. The appeal shall contain the following information:

(1) The name, business address, residence address, and state of licensure of the out-of-state licensee making the appeal.

(2) The action being appealed and the date of the action or written notification of the action from the Board.

(3) A summary of the basis for the appeal, including any information which the out-of-state licensee believes was not given adequate consideration by the Board or the Executive Officer.

(b) If the action taken under 5096(g), 5096(h), or 5096(i) of the Business and Professions Code was taken by the Executive Officer, the Board will consider only appeals based on information previously considered by the Executive Officer. If the individual wishes to submit for consideration additional evidence or information not previously submitted to the Executive Officer, such additional information should be submitted with the request for appeal. An appeal based on evidence or information not previously submitted to the Executive Officer will be referred by the Board to the Executive Officer for further consideration.

(c) The out-of-state licensee shall comply with any action or order of the Board until such time as the appeal is acted upon.

Note: Authority cited: Section 5010 and 5096.9, Business and Professions Code.
Reference: Sections 5096, 5096.6, 5103, and 5108, Business and Professions Code, Section 11415.50, Government Code.

Section 22. Notice of Intent to Administratively Suspend

(a) Prior to the issuance of an Administrative Suspension Order pursuant to Business and Professions Code Section 5096.4, the Executive Officer may issue a Notice of Intent to Administratively Suspend. The Notice of Intent to Administratively Suspend shall be in writing and shall be mailed to a state board of accountancy with which the practice privilege holder is licensed.

(b) The Notice of Intent to Administratively Suspend shall include a description of the contents of the Administrative Suspension Order pursuant to subdivision (c) of Section 5096.4.

(c) The Notice of Intent to Administratively Suspend shall provide the practice privilege holder with 30 days from the date of mailing in which to respond in writing by showing cause to the Executive Officer why the Administrative Suspension Order should not be issued.

(d) The Executive Officer shall determine whether or not the Administrative Suspension Order shall be issued and shall so inform the practice privilege holder in writing.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code.

Reference: Sections 5096 and 5096.4, Business and Professions Code.

ATTACHMENT 2
**LEGISLATION RELATED
TO THE CBA PRACTICE
PRIVILEGE PROGRAM**

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DUPLICATION PURPOSES.**

Senate Bill No. 1543

CHAPTER 921

An act to amend Sections 5000, 5015.6, 5076, 5100, 5109, 5134, and 22253.2 of, to amend, repeal, and add Sections 5050 and 5088 of, to add Sections 5025.2, 5025.3, 5063.3, and 22252.1 to, and to add Article 5.1 (commencing with Section 5096) and Article 6.5 (commencing with Section 5116) to Chapter 1 of Division 3 of, the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

[Approved by Governor September 29, 2004. Filed
with Secretary of State September 30, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1543, Figueroa. California Board of Accountancy: tax preparers.

(1) Existing law provides for the licensing and regulation of accountants by the California Board of Accountancy in the Department of Consumer Affairs. The provisions creating the board, specifying the board's composition, and authorizing the board to appoint an executive officer become inoperative on July 1, 2005, and are repealed on January 1, 2006.

This bill would change these dates to provide that the provisions become inoperative on July 1, 2011, and are repealed on January 1, 2012. The bill would require the Department of Finance, notwithstanding specified provisions in the Budget Act, to authorize up to \$2,000,000 dollars in additional expenditures for the board's enforcement and litigation activities. The bill would require funds for these expenditures to be payable from the Accountancy Fund. The bill would authorize funds to be encumbered in any fiscal year in which the board enters into a contract for litigation or enforcement purposes, as specified. The bill would require funds encumbered for these purposes to be continuously appropriated. The bill would enact provisions authorizing an individual whose principal place of business is not in this state, and who has a valid and current license, certificate, or permit to practice public accountancy from another state, to engage in the practice of public accountancy in this state under certain conditions. The bill would also prohibit a licensed accountant from disclosing confidential information concerning a client or a prospective client without obtaining the client's written permission with specified exceptions. The bill would authorize the board to assess



specified administrative penalties and would require fees from those penalties to be deposited in the Accountancy Fund.

(2) Existing law requires a tax preparer, prior to rendering any tax preparation service, to provide a customer with specified information in writing. A violation of the laws regulating tax preparers is a crime.

This bill would prohibit a tax preparer from disclosing confidential information concerning a client or a prospective client without obtaining the client’s written permission.

Because a violation of the bill by a tax preparer would be a crime, it would impose a state-mandated local program.

(3) Existing law authorizes the Franchise Tax Board, when it identifies an individual who has violated specific provisions regulating tax preparers, to notify the California Tax Education Council, which is required to notify the Attorney General, a district attorney, or a city attorney. Existing law authorizes these entities to cite a violating individual, levy a fine of up to \$1,000 per violation, and issue a cease and desist order.

This bill would instead require that the Franchise Tax Board notify the California Tax Education Council when it identifies a violation. The bill would delete the requirement that the council notify the Attorney General, a district attorney, or a city attorney. The bill instead would authorize the Franchise Tax Board, pursuant to a reimbursement agreement with the California Tax Education Council, to cite a violating individual, levy a fine of up to \$5,000 per violation, and issue a cease and desist order. The bill would prohibit the Franchise Tax Board from incurring costs associated with citing, levying a fine, or issuing a cease and desist order unless certain conditions are satisfied.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 5000 of the Business and Professions Code is amended to read:

5000. There is in the Department of Consumer Affairs the California Board of Accountancy, which consists of 15 members, seven of whom shall be licensees, and eight of whom shall be public members who shall



not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

The Governor shall appoint four of the public members, and the seven licensee members as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint two public members. In appointing the seven licensee members, the Governor shall appoint members representing a cross section of the accounting profession with at least two members representing a small public accounting firm. For the purposes of this chapter, a small public accounting firm shall be defined as a professional firm that employs a total of no more than four licensees as partners, owners, or full-time employees in the practice of public accountancy within the State of California.

This section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2012, deletes or extends the dates on which this section becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of the board shall be limited to reports or studies specified in this chapter and those issues identified by the Joint Committee on Boards, Commissions, and Consumer Protection and the board regarding the implementation of new licensing requirements.

SEC. 2. Section 5015.6 of the Business and Professions Code is amended to read:

5015.6. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 5025.2 is added to the Business and Professions Code, to read:

5025.2. (a) The Legislature finds that there are occasions when the California Board of Accountancy urgently requires additional expenditure authority in order to fund unanticipated enforcement and litigation activities. Without sufficient expenditure authority to obtain the necessary additional resources for urgent litigation and enforcement matters, the board is unable to adequately protect the public. Therefore, it is the intent of the Legislature that, apart from, and in addition to, the expenditure authority that may otherwise be established, the California



Board of Accountancy shall be given the increase in its expenditure authority in any given current fiscal year that is authorized by the Department of Finance pursuant to the provisions of subdivision (b) of this section, for costs and services in urgent litigation and enforcement matters, including, but not limited to, costs for professional and consulting services and for the services of the Attorney General and the Office of Administrative Hearings.

(b) Notwithstanding Control Section 27.00 of the annual Budget Act, Section 11006 of the Government Code, and the amount listed in the annual Budget Act for expenditure, the Department of Finance shall authorize up to two million dollars (\$2,000,000) in additional expenditures for the California Board of Accountancy upon a showing by the board that those funds are necessary for public protection and that the shortfall was not anticipated. These additional expenditures shall be payable from the Accountancy Fund for purposes of the board's litigation or enforcement activities in any given current fiscal year.

SEC. 4. Section 5025.3 is added to the Business and Professions Code, to read:

5025.3. (a) Whenever the board enters into a contract for litigation or enforcement purposes, including, but not limited to, contracts pursuant to Section 5025.1, funds may be encumbered in the fiscal year the contract is executed and expended at any time during the subsequent 24 months commencing with the last day of the fiscal year in which the contract is executed.

(b) Notwithstanding Section 13340 of the Government Code, funds encumbered for a contract pursuant to subdivision (a) of this section are continuously appropriated without regard to fiscal year, however, the appropriation is limited to the period for which funds are authorized to be encumbered under subdivision (a).

SEC. 5. Section 5050 of the Business and Professions Code is amended to read:

5050. (a) No person shall engage in the practice of public accountancy in this state unless such person is the holder of a valid permit to practice public accountancy issued by the board; provided, however, that nothing in this chapter shall prohibit a certified public accountant or a public accountant of another state, or any accountant of a foreign country lawfully practicing therein, from temporarily practicing in this state on professional business incident to his regular practice in another state or country.

(b) This section shall become inoperative on January 1, 2006, and as of that date is repealed.

SEC. 6. Section 5050 is added to the Business and Professions Code, to read:

5050. (a) No person shall engage in the practice of public accountancy in this state unless the person is the holder of a valid permit to practice public accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096).

(b) This section shall become operative on January 1, 2006.

SEC. 7. Section 5063.3 is added to the Business and Professions Code, to read:

5063.3. (a) No confidential information obtained by a licensee, in his or her professional capacity, concerning a client or a prospective client shall be disclosed by the licensee without the written permission of the client or prospective client, except the following:

(1) Disclosures made by a licensee in compliance with a subpoena or a summons enforceable by order of a court.

(2) Disclosures made by a licensee regarding a client or prospective client to the extent the licensee reasonably believes it is necessary to maintain or defend himself or herself in a legal proceeding initiated by the client or prospective client.

(3) Disclosures made by a licensee in response to an official inquiry from a federal or state government regulatory agency.

(4) Disclosures made by a licensee or a licensee's duly authorized representative to another licensee in connection with a proposed sale or merger of the licensee's professional practice.

(5) Disclosures made by a licensee to either of the following:

(A) Another licensee to the extent necessary for purposes of professional consultation.

(B) Organizations that provide professional standards review and ethics or quality control peer review.

(6) Disclosures made when specifically required by law.

(7) Disclosures specified by the board in regulation.

(b) In the event that confidential client information may be disclosed to persons or entities outside the United States of America in connection with the services provided, the licensee shall inform the client in writing and obtain the client's written permission for the disclosure.

SEC. 8. Section 5076 of the Business and Professions Code is amended to read:

5076. (a) In order to renew its registration, a firm providing attest services, other than a sole proprietor or a small firm as defined in Section 5000, shall complete a peer review prior to the first registration expiration date after July 1, 2008, and no less frequently than every three years thereafter.

(b) For purposes of this article, the following definitions apply:



(1) “Peer review” means a study, appraisal, or review conducted in accordance with professional standards of the professional work of a licensee or registered firm by another licensee unaffiliated with the licensee or registered firm being reviewed. The peer review shall include, but not be limited to, a review of at least one attest engagement representing the highest level of service performed by the firm and may include an evaluation of other factors in accordance with requirements specified by the board in regulations.

(2) “Attest services” include an audit, a review of financial statements, or an examination of prospective financial information, provided, however, “attest services” shall not include the issuance of compiled financial statements.

(c) The board shall adopt regulations as necessary to implement, interpret, and make specific the peer review requirements in this section, including, but not limited to, regulations specifying the requirements for the approval of peer review providers, and regulations establishing a peer review oversight committee.

(d) The board shall review whether to implement the program specified in this section in light of the changes in federal and state law or regulations or professional standards, and shall report its findings to the Legislature and the department by September 1, 2005.

SEC. 9. Section 5088 of the Business and Professions Code is amended to read:

5088. (a) Any person who is the holder of a valid and unrevoked license as a certified public accountant issued under the laws of any state and who applies to the board for a license as a certified public accountant under the provisions of Section 5087 may, after application for licensure and after providing evidence of qualifying continuing education, perform the same public accounting services in this state as a certified public accountant licensed under Section 5092 or 5093 until the time his or her application for a license is granted or rejected.

(b) An applicant meeting the requirements of subdivision (a) who certifies that he or she has met the requirements of Section 5095 may perform attest services in this state until the time his or her application for a license is granted or rejected.

(c) This section shall remain operative until January 1, 2006, and as of that date is repealed.

SEC. 10. Section 5088 is added to the Business and Professions Code, to read:

5088. (a) Any individual who is the holder of a current and valid license as a certified public accountant issued under the laws of any state and who applies to the board for a license as a certified public accountant under the provisions of Section 5087 may, until the time the application

for a license is granted or denied, practice public accountancy in this state only under a practice privilege pursuant to the provisions of Article 5.1 (commencing with Section 5096), except that, for purposes of this section, the individual is not disqualified from a practice privilege during the period the application is pending by virtue of maintaining an office or principal place of business, or both, in this state. The board may by regulation provide for exemption, credit, or proration of fees to avoid duplication of fees.

(b) This section shall become operative on January 1, 2006.

SEC. 11. Article 5.1 (commencing with Section 5096) is added to Chapter 1 of Division 3 of the Business and Professions Code, to read:

Article 5.1. Practice Privileges

5096. (a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least four of the last ten years.

(2) The individual has a license, certificate, or permit from a state which has been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state’s qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure which have been determined by the board to be substantially equivalent to this state’s qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) To obtain a practice privilege under this section, an individual who meets the requirements of subdivision (a), shall do the following:

(1) In the manner prescribed by board regulation, notify the board of the individual’s intent to practice.

(2) Pay a fee as provided in Article 8 (commencing with Section 5130).



(d) Except as otherwise provided by this article or by board regulation, the practice privilege commences when the individual notifies the board, provided the fee is received by the board within 30 days of that date. The board shall permit the notification to be provided electronically.

(e) An individual who holds a practice privilege under this article:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when such individual has met the examination and continuing education requirements of the state in which the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand or subpoena for information or documents and timely provide to the board the identified information and documents.

(f) A practice privilege expires one year from the date of the notice, unless a shorter period is set by board regulation.

(g) (1) No individual may practice under a practice privilege without prior approval of the board if the individual has, or acquires at any time during the term of the practice privilege, any disqualifying condition under paragraph (2) of this subdivision.

(2) Disqualifying conditions include:

(A) Conviction of any crime other than a minor traffic violation.

(B) Revocation, suspension, denial, surrender or other discipline or sanctions involving any license, permit, registration, certificate or other authority to practice any profession in this or any other state or foreign

country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board.

(C) Pendency of any investigation, inquiry or proceeding by or before any state, federal or local court or agency, including, but not limited to, the Public Company Accounting Oversight Board, involving the professional conduct of the individual.

(D) Any judgment or arbitration award against the individual involving the professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or greater.

(E) Any other conditions as specified by the board in regulation.

(3) The board may adopt regulations exempting specified minor occurrences of the conditions listed in subparagraph (B) of paragraph (2) from being disqualifying conditions under this subdivision.

5096.1. (a) Any individual, not a licensee of this state, who is engaged in any act which is the practice of public accountancy in this state, and who has not given notice of intent to practice under practice privileges and paid the fee required pursuant to the provisions of this article, and who has a license, certificate or other authority to engage in the practice of public accountancy in any other state, regardless of whether active, inactive, suspended, or subject to renewal on payment of a fee or completion of an educational or ethics requirement, is:

(1) Deemed to be practicing public accountancy unlawfully in this state.

(2) Subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state to the same extent as a holder of a valid practice privilege.

(3) Deemed to have appointed the regulatory agency of the state that issued the individual's certificate or license as the individual's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(b) The board may prospectively deny a practice privilege to any individual who has violated this section or implementing regulations or committed any act which would be grounds for discipline against the holder of a practice privilege.

5096.2. (a) Practice privileges may be denied for failure to qualify under or comply with the provisions of this article or implementing regulations, or for any act that if committed by an applicant for licensure would be grounds for denial of a license under Section 480 or if committed by a licensee would be grounds for discipline under Section 5100, or for any act committed outside of this state that would be a violation if committed within this state.

(b) The board may deny practice privileges using either of the following procedures:



(1) Notifying the individual in writing of all of the following:

(A) That the practice privilege is denied.

(B) The reasons for denial.

(C) The earliest date on which the individual is eligible for a practice privilege.

(D) That the individual has a right to appeal the notice and request a hearing under the provisions of the Administrative Procedure Act if a written notice of appeal and request for hearing is made within 60 days.

(E) That, if the individual does not submit a notice of appeal and request for hearing within 60 days, the board's action set forth in the notice shall become final.

(2) Filing a statement of issues under the Administrative Procedure Act.

(c) An individual who had been denied a practice privilege may apply for a new practice privilege not less than one year after the effective date of the notice or decision denying the practice privilege unless a longer time period, not to exceed three years, is specified in the notice or decision denying the practice privilege.

5096.3. (a) Practice privileges are subject to revocation, suspension, fines or other disciplinary sanctions for any conduct that would be grounds for discipline against a licensee of the board or for any conduct in violation of this article or regulations implementing this article.

(b) Practice privileges are subject to discipline during any time period in which they are valid, under administrative suspension, or expired.

(c) The board may recover its costs pursuant to Section 5107 as part of any disciplinary proceeding against the holder of a practice privilege.

(d) An individual whose practice privilege has been revoked may apply for a new practice privilege not less than one year after the effective date of the board's decision revoking the individual's practice privilege unless a longer time period, not to exceed three years, is specified in the board's decision revoking the practice privilege.

(e) The provisions of the Administrative Procedure Act, including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board shall apply under this article.

5096.4. (a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the representations made in the notice, the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request

for information or documents, or under other conditions and circumstances provided for by board regulation.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this article.

(c) The administrative suspension order shall contain the following:

(1) The reason for the suspension.

(2) A statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing.

(3) A statement that any appeal hearing will be conducted under the provisions of the Administrative Procedure Act applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the denial of practice privileges.

(d) The burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer or expiration of the practice privilege under administrative suspension.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state or from applying for a new practice privilege upon expiration of the one under administrative suspension, except that the new practice privilege shall not be effective until approved by the board.

(g) Notwithstanding any administrative suspension, a practice privilege expires one year from the date of notice unless a shorter period is set by board regulation.

(h) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for denial or discipline of a practice privilege.

5096.5. Notwithstanding any other provision of this article, an individual may not sign any attest report pursuant to a practice privilege unless the individual meets the experience requirements of Section 5095 and completes any continuing education or other conditions required by the board regulations implementing this article.

5096.6. In addition to the authority otherwise provided for by this code, the board may delegate to the executive officer the authority to issue any notice or order provided for in this article and to act on behalf



of the board, including, but not limited to, issuing a notice of denial of a practice privilege and an interim suspension order, subject to the right of the individual to timely appeal and request a hearing as provided for in this article.

5096.7. Except as otherwise provided in this article, the following definitions apply:

(a) Anywhere the term “license,” “licensee,” “permit,” or “certificate” is used in this chapter or Division 1.5 (commencing with Section 475), it shall include persons holding practice privileges under this article, unless otherwise inconsistent with the provisions of the article.

(b) Any notice of practice privileges under this article and supporting documents is deemed an application for licensure for purposes of the provisions of this code, including, but not limited to, the provisions of this chapter and the provisions of Division 1.5 (commencing with Section 475) related to the denial, suspension and revocation of licenses.

(c) Anywhere the term “employee” is used in this article it shall include, but is not limited to, partners, shareholders, and other owners.

5096.8. In addition to the authority otherwise provided by this code, all investigative powers of the board, including those delegated to the executive officer, shall apply to investigations concerning compliance with, or actual or potential violations of, the provisions of this article or implementing regulations, including, but not limited to, the power to conduct investigations and hearings by the executive officer under Section 5103 and to issuance of subpoenas under Section 5108.

5096.9. The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this article.

5096.10. The provisions of this article shall only be operative if commencing July 1, 2005, and continuing during the period provided in Section 5096.11, there is an appropriation from the Accountancy Fund in the annual Budget Act to fund the activities in the article and sufficient hiring authority is granted pursuant to a budget change proposal to the board to provide staffing to implement this article.

5096.11. This article shall become operative on January 1, 2006. It shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2011, deletes or extends that date.

SEC. 12. Section 5100 of the Business and Professions Code is amended to read:

5100. After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for



unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

(b) A violation of Section 478, 498, or 499 dealing with false statements or omissions in the application for a license, in obtaining a certificate as a certified public accountant, in obtaining registration under this chapter, or in obtaining a permit to practice public accountancy under this chapter.

(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(d) Cancellation, revocation, or suspension of a certificate or other authority to practice as a certified public accountant or a public accountant, refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.

(e) Violation of Section 5097.

(f) Violation of Section 5120.

(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(h) Suspension or revocation of the right to practice before any governmental body or agency.

(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

(j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

(k) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(l) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation.

(m) Unlawfully engaging in the practice of public accountancy in another state.



SEC. 13. Section 5109 of the Business and Professions Code is amended to read:

5109. The expiration, cancellation, forfeiture, or suspension of a license, practice, privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license.

SEC. 14. Article 6.5 (commencing with Section 5116) is added to Chapter 1 of Division 3 of the Business and Professions Code, to read:

Article 6.5. Administrative Penalties

5116. (a) The board, after appropriate notice and an opportunity for hearing, may order any licensee or applicant for licensure or examination to pay an administrative penalty as provided in this article as part of any disciplinary proceeding or other proceeding provided for in this chapter.

(b) The board may assess administrative penalties under one or more provisions of this article. However, the total administrative penalty to be paid by the licensee shall not exceed the amount of the highest administrative penalty authorized by this article.

(c) The board shall adopt regulations to establish criteria for assessing administrative penalties based upon factors, including, but not limited to, actual and potential consumer harm, nature and severity of the violation, the role of the person in the violation, the person's ability to pay the administrative penalty, and the level of administrative penalty necessary to deter future violations of this chapter.

(d) Administrative penalties assessed under this article shall be in addition to any other penalties or sanctions imposed on the licensee or other person, including, but not limited to, license revocation, license suspension, denial of the application for licensure, denial of the petition for reinstatement, or denial of admission to the licensing examination. Payment of these administrative penalties may be included as a condition of probation when probation is ordered.

(e) All administrative penalties collected under this article shall be deposited in the Accountancy Fund.

5116.1. In accordance with Section 5116 and applicable regulations, except as provided in Section 5116.2, any licensee who violates any provision of this chapter may be assessed an administrative penalty of not more than five thousand dollars (\$5,000) for the first violation and not more than ten thousand dollars (\$10,000) for each subsequent violation.

5116.2. In accordance with Section 5116 and applicable regulations, any licensee who violates subdivision (a), (c), (i), (j) or (k) of Section 5100 may be assessed an administrative penalty of not more than one million dollars (\$1,000,000) for the first violation and not more than five million dollars (\$5,000,000) for any subsequent violation, except that a licensee who is a natural person may be assessed an administrative penalty of not more than fifty thousand dollars (\$50,000) for the first violation and not more than one hundred thousand dollars (\$100,000) for any subsequent violation.

5116.3. In accordance with Section 5116 and applicable regulations, any person who is found to have cheated or subverted or attempted to subvert or cheat on any licensing examination or who conspired with or aided or abetted any other person to cheat, subvert or attempt to subvert any examination may be assessed an administrative penalty of not more than five thousand dollars (\$5,000) for the first violation and not more than ten thousand dollars (\$10,000) for each subsequent violation.

5116.4. (a) The board's executive officer may request assessment of an administrative penalty in any disciplinary or other proceeding provided in this chapter or in any notice to an applicant pursuant to Section 5112.

(b) The administrative penalty pursuant to subdivision (a) shall become final unless contested within the time period provided for the filing of a notice of appeal, for the filing of a notice of defense, or for requesting a hearing in the proceeding.

(c) Nothing in this article shall prevent an administrative penalty from being included in a final contested or default decision of the board or in a notice issued pursuant to Section 5112 once the time period for requesting a hearing has expired.

5116.5. The board may obtain a judgment in any court of competent jurisdiction ordering the payment of any final administrative penalty assessed by the board pursuant to this article upon the filing of a certified copy of the board's final decision or notice issued pursuant to Section 5112.

5116.6. Anywhere the term "licensee" is used in the article it shall include certified public accountants, public accountants, partnerships, corporations, holders of practice privileges, other persons licensed, registered, or otherwise authorized to practice public accountancy under this chapter, and persons who are in violation of any provision of Article 5.1 (commencing with Section 5096).

SEC. 15. Section 5134 of the Business and Professions Code is amended to read:

5134. The amount of fees prescribed by this chapter is as follows:



(a) The fee to be charged to each applicant for the certified public accountant examination shall be fixed by the board at an amount to equal the actual cost to the board of the purchase or development of the examination, plus the estimated cost to the board of administering the examination and shall not exceed six hundred dollars (\$600). The board may charge a reexamination fee equal to the actual cost to the board of the purchase or development of the examination or any of its component parts, plus the estimated cost to the board of administering the examination and not to exceed seventy-five dollars (\$75) for each part that is subject to reexamination.

(b) The fee to be charged to out-of-state candidates for the certified public accountant examination shall be fixed by the board at an amount equal to the estimated cost to the board of administering the examination and shall not exceed six hundred dollars (\$600) per candidate.

(c) The application fee to be charged to each applicant for issuance of a certified public accountant certificate shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the certificate and shall not exceed two hundred fifty dollars (\$250).

(d) The application fee to be charged to each applicant for issuance of a certified public accountant certificate by waiver of examination shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the certificate and shall not exceed two hundred fifty dollars (\$250).

(e) The fee to be charged to each applicant for registration as a partnership or professional corporation shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the registration and shall not exceed two hundred fifty dollars (\$250).

(f) The board shall fix the biennial renewal fee so that, together with the estimated amount from revenue other than that generated by subdivisions (a) to (e), inclusive, the reserve balance in the board's contingent fund shall be equal to approximately nine months of annual authorized expenditures. Any increase in the renewal fee made after July 1, 1990, shall be effective upon a determination by the board, by regulation adopted pursuant to subdivision (k), that additional moneys are required to fund authorized expenditures other than those specified in subdivisions (a) to (e), inclusive, and maintain the board's contingent fund reserve balance equal to nine months of estimated annual authorized expenditures in the fiscal year in which the expenditures will occur. The biennial fee for the renewal of each of the permits to engage in the practice of public accountancy specified in Section 5070 shall not exceed two hundred fifty dollars (\$250).



(g) The delinquency fee shall be 50 percent of the accrued renewal fee.

(h) The initial permit fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the permit is issued, except that, if the permit is issued one year or less before it will expire, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued. The board may, by regulation, provide for the waiver or refund of the initial permit fee where the permit is issued less than 45 days before the date on which it will expire.

(i) On and after January 1, 2006, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 shall be fixed by the board at an amount not to exceed 50 percent of the biennial renewal fee provided in subdivision (f).

(j) The fee to be charged for the certification of documents evidencing passage of the certified public accountant examination, the certification of documents evidencing the grades received on the certified public accountant examination, or the certification of documents evidencing licensure shall be twenty-five dollars (\$25).

(k) The actual and estimated costs referred to in this section shall be calculated every two years using a survey of all costs attributable to the applicable subdivision.

(l) Upon the effective date of this section the board shall fix the fees in accordance with the limits of this section and, on and after July 1, 1990, any increase in any fee fixed by the board shall be pursuant to regulation duly adopted by the board in accordance with the limits of this section.

(m) Fees collected pursuant to subdivisions (a) to (e), inclusive, shall be fixed by the board in amounts necessary to recover the actual costs of providing the service for which the fee is assessed, as projected for the fiscal year commencing on the date the fees become effective.

SEC. 16. Section 22252.1 is added to the Business and Professions Code, to read:

22252.1. (a) No confidential information obtained by a tax preparer, in his or her professional capacity, concerning a client or a prospective client shall be disclosed by the tax preparer without the written permission of the client or prospective client, except for the following:

(1) Disclosures made by a tax preparer in compliance with a subpoena or a summons enforceable by order of a court.

(2) Disclosures made by a tax preparer regarding a client or prospective client to the extent the tax preparer reasonably believes it is



necessary to maintain or defend himself or herself in a legal proceeding initiated by the client or prospective client.

(3) Disclosures made by a tax preparer in response to an official inquiry from a federal or state government regulatory agency.

(4) Disclosures made by a tax preparer or to a tax preparer's duly authorized representative to another tax preparer in connection with a proposed sale or merger of the tax preparer's professional practice.

(5) Disclosures made by a tax preparer to either of the following:

(A) Another tax preparer to the extent necessary for purposes of professional consultation.

(B) Organizations that provide professional standards review and ethics or quality control peer review.

(6) Disclosures made when specifically required by law.

(b) In the event that confidential client information may be disclosed to persons or entities outside the United States of America in connection with the services provided, the tax preparer shall inform the client in writing and obtain the client's written permission for the disclosure.

(c) It is the intent of the Legislature that this section complement and does not replace Section 17530.5 as applied to tax preparers by subdivision (f) of Section 1799.1a of the Civil Code.

SEC. 17. Section 22253.2 of the Business and Professions Code is amended to read:

22253.2. (a) The Franchise Tax Board shall notify the California Tax Education Council when it identifies an individual who has violated paragraph (1) of subdivision (a) of Section 22253.

(b) The Franchise Tax Board pursuant to an agreement with the California Tax Education Council, as authorized in subdivision (c), may do any of the following:

(1) Cite individuals preparing tax returns in violation of subdivision (a) of Section 22253.

(2) Levy a fine up to five thousand dollars (\$5,000) per violation.

(3) Issue a cease and desist order, which shall remain in effect until the individual has come into compliance with the provisions of paragraph (1) of subdivision (a) of Section 22253.

(c) The California Tax Education Council may enter into an agreement with the Franchise Tax Board to provide reimbursement to the Franchise Tax Board for any expenses incurred by the Franchise Tax Board to implement subdivision (a) of this section.

(d) The Franchise Tax Board shall not incur any costs associated with any of the activities authorized by subdivision (b) until either one of the following has occurred:

(1) Commencing January 1, 2006, and continuing each year thereafter, there is an appropriation in the Franchise Tax Board's annual budget to fund the activities authorized by subdivision (b).

(2) (A) An agreement has been executed between the California Tax Education Council and the Franchise Tax Board that provides that an amount equal to all first year costs necessary to implement and administer the activities authorized by subdivision (b) shall be received by the Franchise Tax Board. For purposes of this paragraph, first year costs include costs associated with, but not limited to, the development of processes or systems changes if necessary, and labor.

(B) An agreement has been executed between the California Tax Education Council and the Franchise Tax Board that provides that the annual costs incurred by the Franchise Tax Board as a result of the activities authorized by subdivision (b) shall be reimbursed by the California Tax Education Council to the Franchise Tax Board.

(C) Pursuant to the agreement described in subparagraph (A), the Franchise Tax Board has received an amount equal to the first year costs.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



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DUPLICATION PURPOSES.**

Assembly Bill No. 1868

CHAPTER 458

An act to amend Sections 5050 and 5134 of, to add Sections 5035.3, 5050.1, 5050.2, 5096.13, 5096.14, and 5096.15 to, and to add and repeal Section 5096.12 of, the Business and Professions Code, relating to accountancy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2006. Filed with
Secretary of State September 25, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1868, Bermudez. Accountancy: licensure.

Existing law provides for the licensing and regulation of accountants by the California Board of Accountancy in the Department of Consumer Affairs. Existing law prohibits a person from engaging in the practice of public accountancy in this state unless he or she holds either a valid permit issued by the board or a practice privilege, as specified. A violation of this provision is a crime.

This bill would provide that the prohibition against practicing accountancy in California without a license does not apply to a person who holds a valid and current license, registration, certificate, permit, or other authority to practice public accountancy from a foreign country to the extent that he or she is temporarily practicing in this state incident to an engagement in that country, provided that the temporary practice is regulated by the foreign country and performed under the accounting or auditing standards of that country and that the person does not hold himself or herself out as being the holder of a California license or practice privilege. The bill would also, until January 1, 2011, provide that the prohibition against practicing accountancy in California without a license does not apply to a certified public accountant, a public accountant, or a public accounting firm lawfully practicing in another state to the extent that the practice is temporary and incident to practice in that state, provided that the person or firm does not solicit clients in California, does not assert or imply licensure in California, and does not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction.

Existing law authorizes an individual whose principal place of business is not in California and who has a valid and current license, certificate, or permit to practice public accountancy from another state to engage in the practice of public accountancy in California under a practice privilege if certain conditions are met, including notification to the board of intent to practice.

This bill would, until January 1, 2011, permit a certified public accounting firm authorized to practice in another state that does not have an office in this state to practice public accountancy in California through the holder of a practice privilege if certain conditions are met. The bill would require a notification of intent to practice under a practice privilege to include the name of the firm, its address and telephone number, and its federal taxpayer identification number.

This bill would provide that a person who engages in accountancy in California is deemed to have consented to the jurisdiction of the board and is deemed to have appointed the regulatory agency of his or her state or foreign jurisdiction as the person's agent for a service of process in actions or proceedings by or before the board. The bill would, until January 1, 2011, authorize the board to revoke, suspend, issue a fine, or otherwise restrict an authorization to practice granted to a foreign accounting firm or discipline the holder of that authorization for any act that would be a violation of, or would be grounds for discipline against a licensee or holder of a practice privilege or denial of an accountancy license or practice privilege under, the Business and Professions Code. The bill would allow an application for reinstatement to practice, as specified, and would allow the board to administratively suspend an authorization to practice. The bill would also require the board to amend certain regulations, as specified.

Existing law sets specified fees to be charged by the board, including an annual fee for a practice privilege to be fixed by the board at up to 50% of the biennial renewal fee for an accountant.

This bill would instead require an annual fee for a practice privilege with an authorization to sign attest reports to be set by the board at up to \$125, and for a practice privilege without an authorization to sign attest reports at up to 80% of that fee. The bill would declare the intent of the Legislature that the board adopt emergency regulations providing for a lower fee or no fee for out-of-state accountants who do not sign attest reports for California clients under the practice privilege, as long as the practice privilege program is adequately funded.

Because this bill may increase fees deposited into the Accountancy Fund, a continuously appropriated fund, it would make an appropriation.

Because this bill would subject additional persons to requirements within the accountancy licensing provisions, the violation of which are a crime, and because the bill would create new requirements and prohibitions within the licensing provisions, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

This bill would incorporate additional changes in Section 5134 of the Business and Professions Code proposed by SB 503, to be operative only if SB 503 and this bill are both chaptered and become effective on or before January 1, 2007, but this bill becomes operative first, both bills amend Section 5134 of the Business and Professions Code, and this bill is chaptered last.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 5035.3 is added to the Business and Professions Code, to read:

5035.3. For purposes of subdivision (b) of Section 5050 and Sections 5054 and 5096.12, “firm” includes any entity that is authorized or permitted to practice public accountancy as a firm under the laws of another state.

SEC. 2. Section 5050 of the Business and Professions Code is amended to read:

5050. (a) Except as provided in subdivisions (b) and (c) of this section, in subdivision (a) of Section 5054, and in Section 5096.12, no person shall engage in the practice of public accountancy in this state unless the person is the holder of a valid permit to practice public accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096).

(b) Nothing in this chapter shall prohibit a certified public accountant, a public accountant, or a public accounting firm lawfully practicing in another state from temporarily practicing in this state incident to practice in another state, provided that an individual providing services under this subdivision may not solicit California clients, may not assert or imply that the individual is licensed to practice public accountancy in California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction, as defined in subdivision (c) of Section 19753 of the Revenue and Taxation Code. A firm providing services under this subdivision that is not registered to practice public accountancy in California may not solicit California clients, may not assert or imply that the firm is licensed to practice public accountancy in California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction, as defined in subdivision (c) of Section 19753 of the Revenue and Taxation Code. This subdivision shall become inoperative on January 1, 2011.

(c) Nothing in this chapter shall prohibit a person who holds a valid and current license, registration, certificate, permit, or other authority to practice public accountancy from a foreign country, and lawfully practicing therein, from temporarily engaging in the practice of public

accountancy in this state incident to an engagement in that country, provided that:

(1) The temporary practice is regulated by the foreign country and is performed under accounting or auditing standards of that country.

(2) The person does not hold himself or herself out as being the holder of a valid California permit to practice public accountancy or the holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096).

SEC. 3. Section 5050.1 is added to the Business and Professions Code, to read:

5050.1. (a) Any person that engages in any act that is the practice of public accountancy in this state consents to the personal, subject matter, and disciplinary jurisdiction of the board. This subdivision is declarative of existing law.

(b) Any person engaged in the practice of public accountancy under subdivision (a) is deemed to have appointed the regulatory authority of the state or foreign jurisdiction that issued the person's permit, certificate, license or other authorization to practice as the person's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by or before the board against or involving that person.

SEC. 4. Section 5050.2 is added to the Business and Professions Code, to read:

5050.2. (a) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the holder of an authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 for any act that would be a violation of this code or grounds for discipline against a licensee or holder of a practice privilege, or ground for denial of a license or practice privilege under this code. The provisions of the Administrative Procedure Act, including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board shall apply to this section. Any person whose authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 has been revoked may apply for reinstatement of the authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (b) of Section 5054, or Section 5096.12 not less than one year after the effective date of the board's decision revoking the authorization to practice unless a longer time, not to exceed three years, is specified in the board's decision revoking the authorization to practice.

(b) The board may administratively suspend the authorization of any person to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 for any act that would be grounds for administrative suspension under Section 5096.4 utilizing the procedures set forth in that section.

SEC. 5. Section 5096.12 is added to the Business and Professions Code, to read:

5096.12. (a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) This section shall become inoperative on January 1, 2011, and as of that date is repealed.

SEC. 6. Section 5096.13 is added to the Business and Professions Code, to read:

5096.13. The notification of intent to practice under a practice privilege pursuant to Section 5096 shall include the name of the firm, its address and telephone number, and its federal taxpayer identification number.

SEC. 7. Section 5096.14 is added to the Business and Professions Code, to read:

5096.14. The board shall amend Section 30 of Article 4 of Division 1 of Title 16 of the California Code of Regulations to extend the current “safe harbor” period from December 31, 2007, to December 31, 2010.

SEC. 8. Section 5096.15 is added to the Business and Professions Code, to read:

5096.15. It is the intent of the Legislature that the board adopt regulations providing for a lower fee or no fee for out-of-state accountants who do not sign attest reports for California clients under the practice privilege. These regulations shall ensure that the practice privilege program is adequately funded. These regulations shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and, for purposes of that chapter, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

SEC. 9. Section 5134 of the Business and Professions Code is amended to read:

5134. The amount of fees prescribed by this chapter is as follows:

(a) The fee to be charged to each applicant for the certified public accountant examination shall be fixed by the board at an amount to equal the actual cost to the board of the purchase or development of the examination, plus the estimated cost to the board of administering the examination and shall not exceed six hundred dollars (\$600). The board

may charge a reexamination fee equal to the actual cost to the board of the purchase or development of the examination or any of its component parts, plus the estimated cost to the board of administering the examination and not to exceed seventy-five dollars (\$75) for each part that is subject to reexamination.

(b) The fee to be charged to out-of-state candidates for the certified public accountant examination shall be fixed by the board at an amount equal to the estimated cost to the board of administering the examination and shall not exceed six hundred dollars (\$600) per candidate.

(c) The application fee to be charged to each applicant for issuance of a certified public accountant certificate shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the certificate and shall not exceed two hundred fifty dollars (\$250).

(d) The application fee to be charged to each applicant for issuance of a certified public accountant certificate by waiver of examination shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the certificate and shall not exceed two hundred fifty dollars (\$250).

(e) The fee to be charged to each applicant for registration as a partnership or professional corporation shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the registration and shall not exceed two hundred fifty dollars (\$250).

(f) The board shall fix the biennial renewal fee so that, together with the estimated amount from revenue other than that generated by subdivisions (a) to (e), inclusive, the reserve balance in the board's contingent fund shall be equal to approximately nine months of annual authorized expenditures. Any increase in the renewal fee made after July 1, 1990, shall be effective upon a determination by the board, by regulation adopted pursuant to subdivision (k), that additional moneys are required to fund authorized expenditures other than those specified in subdivisions (a) to (e), inclusive, and maintain the board's contingent fund reserve balance equal to nine months of estimated annual authorized expenditures in the fiscal year in which the expenditures will occur. The biennial fee for the renewal of each of the permits to engage in the practice of public accountancy specified in Section 5070 shall not exceed two hundred fifty dollars (\$250).

(g) The delinquency fee shall be 50 percent of the accrued renewal fee.

(h) The initial permit fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the permit is issued, except that, if the permit is issued one year or less before it will expire, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued. The board may, by regulation, provide for the waiver or refund of the initial permit fee where the permit is issued less than 45 days before the date on which it will expire.

(i) (1) On and after the enactment of Assembly Bill 1868 of the 2005–06 Regular Session, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 with an authorization to sign attest reports shall be fixed by the board at an amount not to exceed one hundred twenty-five dollars (\$125).

(2) On and after enactment of Assembly Bill 1868 of the 2005–06 Regular Session, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 without an authorization to sign attest reports shall be fixed by the board at an amount not to exceed 80 percent of the fee authorized under paragraph (1).

(j) The fee to be charged for the certification of documents evidencing passage of the certified public accountant examination, the certification of documents evidencing the grades received on the certified public accountant examination, or the certification of documents evidencing licensure shall be twenty-five dollars (\$25).

(k) The actual and estimated costs referred to in this section shall be calculated every two years using a survey of all costs attributable to the applicable subdivision.

(l) Upon the effective date of this section the board shall fix the fees in accordance with the limits of this section and, on and after July 1, 1990, any increase in any fee fixed by the board shall be pursuant to regulation duly adopted by the board in accordance with the limits of this section.

(m) Fees collected pursuant to subdivisions (a) to (e), inclusive, shall be fixed by the board in amounts necessary to recover the actual costs of providing the service for which the fee is assessed, as projected for the fiscal year commencing on the date the fees become effective.

SEC. 10. Section 5134 of the Business and Professions Code is amended to read:

5134. The amount of fees prescribed by this chapter is as follows:

(a) The fee to be charged to each applicant for the certified public accountant examination shall be fixed by the board at an amount not to exceed six hundred dollars (\$600). The board may charge a reexamination fee not to exceed seventy-five dollars (\$75) for each part that is subject to reexamination.

(b) The fee to be charged to out-of-state candidates for the certified public accountant examination shall be fixed by the board at an amount not to exceed six hundred dollars (\$600) per candidate.

(c) The application fee to be charged to each applicant for issuance of a certified public accountant certificate shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(d) The application fee to be charged to each applicant for issuance of a certified public accountant certificate by waiver of examination shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(e) The fee to be charged to each applicant for registration as a partnership or professional corporation shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(f) The board shall fix the biennial renewal fee so that, together with the estimated amount from revenue other than that generated by subdivisions (a) to (e), inclusive, the reserve balance in the board's contingent fund shall be equal to approximately nine months of annual authorized expenditures. Any increase in the renewal fee shall be made by regulation upon a determination by the board that additional moneys are required to fund authorized expenditures and maintain the board's contingent fund reserve balance equal to nine months of estimated annual authorized expenditures in the fiscal year in which the expenditures will occur. The biennial fee for the renewal of each of the permits to engage in the practice of public accountancy specified in Section 5070 shall not exceed two hundred fifty dollars (\$250).

(g) The delinquency fee shall be 50 percent of the accrued renewal fee.

(h) The initial permit fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the permit is issued, except that, if the permit is issued one year or less before it will expire, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued. The board may, by regulation, provide for the waiver or refund of the initial permit fee where the permit is issued less than 45 days before the date on which it will expire.

(i) (1) On and after the enactment of Assembly Bill 1868 of the 2005–06 Regular Session, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 with an authorization to sign attest reports shall be fixed by the board at an amount not to exceed one hundred twenty-five dollars (\$125).

(2) On and after enactment of Assembly Bill 1868 of the 2005–06 Regular Session, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 without an authorization to sign attest reports shall be fixed by the board at an amount not to exceed 80 percent of the fee authorized under paragraph (1).

(j) The fee to be charged for the certification of documents evidencing passage of the certified public accountant examination, the certification of documents evidencing the grades received on the certified public accountant examination, or the certification of documents evidencing licensure shall be twenty-five dollars (\$25).

(k) The board shall fix the fees in accordance with the limits of this section and, on and after July 1, 1990, any increase in a fee fixed by the board shall be pursuant to regulation duly adopted by the board in accordance with the limits of this section.

(l) It is the intent of the Legislature that, to ease entry into the public accounting profession in California, any administrative cost to the board related to the certified public accountant examination or issuance of the certified public accountant certificate that exceeds the maximum fees authorized by this section shall be covered by the fees charged for the biennial renewal of the permit to practice.

SEC. 11. Section 10 of this bill incorporates amendments to Section 5134 of the Business and Professions Code proposed by both this bill and SB 503. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, but this bill becomes operative first, (2) each bill amends Section 5134 of the Business and Professions Code, and (3) this bill is enacted after SB 503, in which case Section 5134 of the Business and Professions Code, as amended by Section 9 of this bill, shall remain operative only until the operative date of SB 503, at which time Section 10 of this bill shall become operative.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that accountants licensed by another jurisdiction be permitted to lawfully provide services to their clients in California as soon as possible, it is necessary that this bill take effect immediately.

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Senate Bill No. 1405

CHAPTER 411

An act to amend Sections 5070, 5092, and 5096.9 of, to amend, repeal, and add Sections 5072, 5096, 5096.1, 5096.2, 5096.3, 5096.4, 5096.5, 5096.6, 5096.7, 5096.10, 5096.12, 5096.13, 5096.14, and 5096.15 of, to add Sections 5058.4 and 5070.2 to, and to add and repeal Sections 5096.20 and 5096.21 of, the Business and Professions Code, relating to accountancy.

[Approved by Governor September 20, 2012. Filed with
Secretary of State September 20, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1405, De León. Accountancy: military service: practice privilege.

Existing law provides for the licensure and regulation of the practice of accountancy by the California Board of Accountancy within the Department of Consumer Affairs. The department is under the control of the Director of Consumer Affairs.

(1) Existing law provides for the regulation of various professions and vocations by boards within the Department of Consumer Affairs and for the licensure of individuals in that regard. Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license without examination or penalty if certain requirements are met. A permit issued to a certified public accountant or a public accountant is subject to a biennial renewal fee. Existing law also imposes certain continuing education and peer review requirements on persons licensed by the board. Existing law makes violation of certain provisions governing accountants a crime.

This bill, beginning January 1, 2014, would authorize a certified public accountant or a public accountant to apply to the board to have his or her permit placed in a military inactive status while he or she is engaged in active duty as a member of the California National Guard or the United States Armed Forces, and would exempt a person granted that status from paying the biennial renewal fee or participating in continuing education and peer review activities. The bill would prohibit a person in military exempt status from engaging in the practice of public accountancy and would impose various other requirements. The bill would thereby change the definition of a crime and impose a state-mandated local program. The bill would require a person in military exempt status to pay the biennial renewal fee and to meet continuing education and peer review requirements within a specified period after his or her discharge from active duty.

(2) Existing law authorizes an individual whose principal place of business is not in this state, and who has a valid and current license,

certificate, or permit, to practice public accountancy from another state, and to engage in the practice of public accountancy in this state under a practice privilege if a condition is satisfied. Under existing law, if such a condition is met, the individual, in order to obtain a practice privilege, is required to, among other things, provide notice to the board by submitting a notification form and pay fees, as specified. Existing law provides that an individual with a practice privilege is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the state courts and is required to comply with the accountancy provisions applicable to licensees. Under existing law, except as otherwise specified, a practice privilege expires one year from the date of the notice to the board. Existing law authorizes the board to deny practice privileges using specified procedures. Existing law prohibits an individual with a practice privilege from signing an attest report unless he or she meets specified experience requirements and completes any continuing education or other conditions as required by the board. Existing law makes these provisions operative only if there is a specified appropriation in the annual Budget Act to fund the practice privilege provisions.

This bill would, commencing July 1, 2013, and until January 1, 2019, eliminate the notification form and fee requirements and would instead authorize an individual otherwise meeting a condition for a practice privilege to perform certain audit and financial statement review services only through a firm of certified public accountants that is required to be registered with the board. The bill would require the individual to cease practicing for a specified period of time under the practice privilege in this state if the regulatory agency in the state where the individual is licensed, among other things, suspends or revokes the license or takes specified disciplinary action against the individual or the individual is convicted of a crime involving dishonesty. The bill would require an individual who is required to cease practice to notify the board and cease practice and would make an individual who violates these requirements subject to specified discipline by the board. The bill would require an individual, within a specified time period before he or she wishes to practice in this state to notify the board and shall not practice until the board provides the person with written permission to do so if certain circumstances apply. The bill would eliminate the expiration on a practice privilege and would also eliminate the board's authority to deny a practice privilege, except as specified, and would authorize the board to instead revoke such a privilege. If the board revokes a practice privilege, the bill would require the board to notify the regulatory agency of the state where the individual is licensed and certain federal regulatory agencies. With respect to the signing of attestation reports, the bill would eliminate the continuing education or other conditions requirements required by the board. The bill would also delete that provision making these provisions contingent on a specified appropriation in the annual Budget Act.

The bill would require the board to adopt emergency regulations to implement these provisions.

The bill would require the board, prior to July 1, 2013, to add specified content to its Internet Web site in order to allow consumers to obtain license information about individuals with a practice privilege.

Commencing January 1, 2016, the bill would authorize the board to make a determination based on specified factors about whether allowing individuals from a particular state to practice pursuant to a practice privilege violates the board's duty to protect the public. If the board were to make such a determination, the bill would require the board to require those individuals, except as specified, to file the notification form and pay specified fees. The bill would require the board to report to the relevant policy committees of the Legislature and the director preliminary determinations made pursuant to these provisions no later than July 1, 2015.

The bill would, by January 1, 2018, require the board to prepare a report to be provided to the relevant policy committees of the Legislature and the director detailing, among other things, how the board has implemented these practice privilege provisions.

The bill would, by July 1, 2014, require the board to convene a specified stakeholder group to consider whether the penalties imposed pursuant to the practice privilege provisions are sufficient to deter violations.

The bill would make other related conforming changes.

Existing law prohibits a person from engaging in the practice of accountancy as a partnership unless the partnership is registered with the board. Existing law requires a partnership to meet certain requirements in order to be registered, including, that each partner be personally engaged within this state in the practice of accountancy and that at least one general partner holds a specified permit or is an applicant for a specified certificate.

This bill would, instead, require that each partner be engaged in this state in the practice of accountancy and would additionally authorize a partnership registered to provide certain services, as described above, to meet those requirements.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 5058.4 is added to the Business and Professions Code, to read:

5058.4. The holder of a permit in a military inactive status issued by the board pursuant to Section 5070.2, when lawfully using the title "certified public accountant," the CPA designation, or any other reference that would suggest that the person is licensed by the board, on materials such as correspondence, Internet Web sites, business cards, nameplates, or name

plaques, shall place the term “military inactive” immediately after that title, designation, or reference.

SEC. 2. Section 5070 of the Business and Professions Code is amended to read:

5070. Permits to engage in the practice of public accountancy in this state shall be issued by the board only to holders of the certificate of certified public accountant issued under this chapter and to those partnerships, corporations, and other persons who, upon application approved by the board, are registered with the board under this chapter. Notwithstanding any other provision of law, the board may register an entity organized and authorized to practice public accountancy under the laws of another state for the purpose of allowing that entity to satisfy the registration requirement set forth in Section 5096.12, provided that (1) the certified public accountants providing services in California qualify for the practice privilege, and (2) the entity satisfies all other requirements to register in this state, other than its form of legal organization.

All applicants for registration shall furnish satisfactory evidence that the applicant is entitled to registration and shall pay the fee as provided in Article 8 (commencing with Section 5130). Every partnership, corporation, and other person to whom a permit is issued after December 31, 1962, shall, in addition to any other fee which may be payable, pay the initial permit fee provided in Article 8 (commencing with Section 5130).

Each partnership, corporation, and other person issued a permit by the board to practice as a certified public accountant or as a public accountant shall be furnished with a suitable certificate evidencing that registration.

SEC. 3. Section 5070.2 is added to the Business and Professions Code, to read:

5070.2. (a) (1) Beginning January 1, 2014, a holder of a permit may apply to have his or her permit placed in a military inactive status if the holder of a permit is engaged in, and provides sufficient evidence of, active duty as a member of the California National Guard or the United States Armed Forces.

(2) The board shall deny an applicant’s application for a military inactive status permit if the permit issued pursuant to Section 5070 is canceled or if it is suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(b) No holder of a permit in a military inactive status shall engage in any activity for which a permit is required.

(c) The holder of a permit in a military inactive status shall be exempt from all of the following:

(1) Payment of the biennial renewal fee described in subdivision (f) of Section 5134.

(2) The continuing education requirements of Section 5027.

(3) The peer review requirements of Section 5076.

(d) In order to convert a permit status from military inactive status prior to discharge from active duty as a member of the California National Guard

or the United States Armed Forces, the holder of a permit in a military inactive status shall comply with all of the following requirements:

(1) Pay the current biennial renewal fee described in subdivision (f) of Section 5134.

(2) Meet continuing education requirements as prescribed by the board.

(3) Meet the peer review requirements as prescribed by the board.

(e) The holder of a permit in a military inactive status shall, within one year from his or her discharge from active duty as a member of the California National Guard or the United States Armed Forces, comply with all of the following requirements:

(1) Provide evidence to the board of the discharge date.

(2) Pay the current biennial renewal fee described in subdivision (f) of Section 5134.

(3) Meet continuing education requirements as prescribed by the board.

(4) Meet the peer review requirements as prescribed by the board.

(f) The board may adopt regulations as necessary to administer this section.

SEC. 4. Section 5072 of the Business and Professions Code is amended to read:

5072. (a) No persons shall engage in the practice of accountancy as a partnership unless the partnership is registered by the board.

(b) A partnership, other than a limited partnership, may be registered by the board to engage in the practice of public accountancy provided it meets the following requirements:

(1) At least one general partner shall hold a valid permit to practice as a certified public accountant, public accountant, or accountancy corporation, or shall be an applicant for a certificate as a certified public accountant under Sections 5087 and 5088.

(2) Each partner engaged within this state in the practice of public accountancy as defined by Section 5051 shall hold a valid permit to practice in this state or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088.

(3) Each partner not engaged in the practice of public accountancy within this state shall be a certified public accountant in good standing of some state, except as permitted by Section 5079.

(4) Each resident manager in charge of an office of the firm in this state shall be a licensee in good standing of this state, or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088.

(c) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 5072 is added to the Business and Professions Code, to read:

5072. (a) No persons shall engage in the practice of accountancy as a partnership unless the partnership is registered by the board.

(b) A partnership, other than a limited partnership, may be registered by the board to engage in the practice of public accountancy provided it meets the following requirements:

(1) At least one general partner shall hold a valid permit to practice as a certified public accountant, public accountant, or accountancy corporation, or shall be an applicant for a certificate as a certified public accountant under Sections 5087 and 5088, or the partnership shall be registered pursuant to subdivision (c) of Section 5096.12.

(2) Each partner engaged within this state in the practice of public accountancy as defined by Section 5051 shall hold a valid permit to practice in this state or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088, except for a partner with practice privileges pursuant to Section 5096.

(3) Each partner not engaged in the practice of public accountancy within this state shall be a certified public accountant in good standing of some state, except as permitted by Section 5079.

(4) Each resident manager in charge of an office of the firm in this state shall be a licensee in good standing of this state, or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088.

(c) This section shall become operative on July 1, 2013.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 6. Section 5072 is added to the Business and Professions Code, to read:

5072. (a) No persons shall engage in the practice of accountancy as a partnership unless the partnership is registered by the board.

(b) A partnership, other than a limited partnership, may be registered by the board to engage in the practice of public accountancy provided it meets the following requirements:

(1) At least one general partner shall hold a valid permit to practice as a certified public accountant, public accountant, or accountancy corporation, or shall be an applicant for a certificate as a certified public accountant under Sections 5087 and 5088.

(2) Each partner engaged within this state in the practice of public accountancy as defined by Section 5051 shall hold a valid permit to practice in this state or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088.

(3) Each partner not engaged in the practice of public accountancy within this state shall be a certified public accountant in good standing of some state, except as permitted by Section 5079.

(4) Each resident manager in charge of an office of the firm in this state shall be a licensee in good standing of this state, or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088.

(c) This section shall become operative on January 1, 2019.

SEC. 7. Section 5092 of the Business and Professions Code is amended to read:

5092. (a) To qualify for the certified public accountant license, an applicant who is applying under this section shall meet the education, examination, and experience requirements specified in subdivisions (b), (c), and (d), or otherwise prescribed pursuant to this article. The board may adopt regulations as necessary to implement this section.

(b) An applicant for the certified public accountant license shall present satisfactory evidence that the applicant has completed a baccalaureate or higher degree conferred by a college or university, meeting, at a minimum, the standards described in Section 5094, the total educational program to include a minimum of 24 semester units in accounting subjects and 24 semester units in business related subjects. This evidence shall be provided prior to admission to the examination for the certified public accountant license, except that an applicant who applied, qualified, and sat for at least two subjects of the examination for the certified public accountant license before May 15, 2002, may provide this evidence at the time of application for licensure.

(c) An applicant for the certified public accountant license shall pass an examination prescribed by the board pursuant to this article.

(d) The applicant shall show, to the satisfaction of the board, that the applicant has had two years of qualifying experience. This experience may include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. To be qualifying under this section, experience shall have been performed in accordance with applicable professional standards. Experience in public accounting shall be completed under the supervision or in the employ of a person licensed or otherwise having comparable authority under the laws of any state or country to engage in the practice of public accountancy. Experience in private or governmental accounting or auditing shall be completed under the supervision of an individual licensed by a state to engage in the practice of public accountancy.

(e) This section shall become inoperative on January 1, 2014, but shall become or remain operative if the educational requirements in ethics study and accounting study established by subdivision (b) of Section 5094, Section 5094.5, and Section 5094.6 are reduced or eliminated.

SEC. 8. Section 5096 of the Business and Professions Code is amended to read:

5096. (a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least four of the last ten years.

(2) The individual has a license, certificate, or permit from a state which has been determined by the board to have education, examination, and

experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure which have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) To obtain a practice privilege under this section, an individual who meets the requirements of subdivision (a), shall do the following:

(1) In the manner prescribed by board regulation, notify the board of the individual's intent to practice.

(2) Pay a fee as provided in Article 8 (commencing with Section 5130).

(d) Except as otherwise provided by this article or by board regulation, the practice privilege commences when the individual notifies the board, provided the fee is received by the board within 30 days of that date. The board shall permit the notification to be provided electronically.

(e) An individual who holds a practice privilege under this article:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when such individual has met the examination and continuing education requirements of the state in which the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand, or subpoena for information or documents and timely provide to the board the identified information and documents.

(f) A practice privilege expires one year from the date of the notice, unless a shorter period is set by board regulation.

(g) (1) No individual may practice under a practice privilege without prior approval of the board if the individual has, or acquires at any time during the term of the practice privilege, any disqualifying condition under paragraph (2) of this subdivision.

(2) Disqualifying conditions include:

(A) Conviction of any crime other than a minor traffic violation.

(B) Revocation, suspension, denial, surrender, or other discipline or sanctions involving any license, permit, registration, certificate, or other authority to practice any profession in this or any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board.

(C) Pendency of any investigation, inquiry, or proceeding by or before any state, federal or local court or agency, including, but not limited to, the Public Company Accounting Oversight Board, involving the professional conduct of the individual.

(D) Any judgment or arbitration award against the individual involving the professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or greater.

(E) Any other conditions as specified by the board in regulation.

(3) The board may adopt regulations exempting specified minor occurrences of the conditions listed in subparagraph (B) of paragraph (2) from being disqualifying conditions under this subdivision.

(h) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 5096 is added to the Business and Professions Code, to read:

5096. (a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least four of the last 10 years.

(2) The individual has a license, certificate, or permit from a state which has been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure which have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification

evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) An individual who qualifies for the practice privilege under this section may engage in the practice of public accountancy in this state, and no notice, fee, or other requirement shall be imposed on that individual by the board.

(d) An individual who qualifies for the practice privilege under this section may perform the following services only through a firm of certified public accountants that has obtained a registration from the board pursuant to Section 5096.12:

(1) An audit or review of a financial statement for an entity headquartered in California.

(2) A compilation of a financial statement when that person expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence for an entity headquartered in California.

(3) An examination of prospective financial information for an entity headquartered in California.

(e) An individual who holds a practice privilege under this article:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when the individual has met the examination and continuing education requirements of the state in which the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand, or subpoena for information or documents and timely provide to the board the identified information and documents.

(6) Shall cease exercising the practice privilege in this state if the regulatory agency in the state in which the individual's certificate, license, or permit was issued takes disciplinary action resulting in the suspension

or revocation, including stayed suspension, stayed revocation, or probation of the individual's certificate, license, or permit, or takes other disciplinary action against the individual's certificate, license, or permit that arises from any of the following:

(A) Gross negligence, recklessness, or intentional wrongdoing relating to the practice of public accountancy.

(B) Fraud or misappropriation of funds.

(C) Preparation, publication, or dissemination of false, fraudulent, or materially incomplete or misleading financial statements, reports, or information.

(7) Shall cease exercising the practice privilege in this state if convicted in any jurisdiction of any crime involving dishonesty, including, but not limited to, embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(8) Shall cease exercising the practice privilege if the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board bars the individual from practicing before them.

(9) Shall cease exercising the practice privilege if any governmental body or agency suspends the right of the individual to practice before the body or agency.

(f) An individual who is required to cease practice pursuant to paragraphs (6) to (9), inclusive, of subdivision (e) shall notify the board within 15 calendar days, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until he or she has received from the board written permission to do so.

(g) An individual who fails to cease practice as required by subdivision (e) or that fails to provide the notice required by subdivision (f) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or (f) shall, for a minimum of one year from the date the board learns there has been a violation of subdivision (e) or (f), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years.

(h) The board shall require an individual who provides notice to the board pursuant to subdivision (f) to cease the practice of public accountancy in this state until the board provides the individual with written permission to resume the practice of public accountancy in this state.

(i) (1) An individual to whom, within the last seven years immediately preceding the date on which he or she wishes to practice in this state, any of the following criteria apply, shall notify the board, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until the board provides the individual with written permission to do so:

(A) He or she has been the subject of any final disciplinary action by the licensing or disciplinary authority of any other jurisdiction with respect to any professional license or has any charges of professional misconduct pending against him or her in any other jurisdiction.

(B) He or she has had his or her license in another jurisdiction reinstated after a suspension or revocation of the license.

(C) He or she has been denied issuance or renewal of a professional license or certificate in any other jurisdiction for any reason other than an inadvertent administrative error.

(D) He or she has been convicted of a crime or is subject to pending criminal charges in any jurisdiction other than a minor traffic violation.

(E) He or she has otherwise acquired a disqualifying condition as described in subdivision (a) of Section 5096.2.

(2) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by paragraph (1) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or paragraph (1) shall, for a minimum of one year from the date the board knows there has been a violation of subdivision (e) or paragraph (1), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual shall be prohibited from practicing in this state in the same manner as if a licensee has his or her practice privilege revoked and there shall be no possibility of reinstatement for a minimum of two years.

(j) This section shall become operative on July 1, 2013.

(k) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 10. Section 5096 is added to the Business and Professions Code, to read:

5096. (a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least four of the last 10 years.

(2) The individual has a license, certificate, or permit from a state which has been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure which have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) To obtain a practice privilege under this section, an individual who meets the requirements of subdivision (a), shall do the following:

(1) In the manner prescribed by board regulation, notify the board of the individual's intent to practice.

(2) Pay a fee as provided in Article 8 (commencing with Section 5130).

(d) Except as otherwise provided by this article or by board regulation, the practice privilege commences when the individual notifies the board, provided the fee is received by the board within 30 days of that date. The board shall permit the notification to be provided electronically.

(e) An individual who holds a practice privilege under this article:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when such individual has met the examination and continuing education requirements of the state in which the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand, or subpoena for information or documents and timely provide to the board the identified information and documents.

(f) A practice privilege expires one year from the date of the notice, unless a shorter period is set by board regulation.

(g) (1) No individual may practice under a practice privilege without prior approval of the board if the individual has, or acquires at any time

during the term of the practice privilege, any disqualifying condition under paragraph (2) of this subdivision.

(2) Disqualifying conditions include:

(A) Conviction of any crime other than a minor traffic violation.

(B) Revocation, suspension, denial, surrender, or other discipline or sanctions involving any license, permit, registration, certificate, or other authority to practice any profession in this or any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board.

(C) Pendency of any investigation, inquiry, or proceeding by or before any state, federal or local court or agency, including, but not limited to, the Public Company Accounting Oversight Board, involving the professional conduct of the individual.

(D) Any judgment or arbitration award against the individual involving the professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or greater.

(E) Any other conditions as specified by the board in regulation.

(3) The board may adopt regulations exempting specified minor occurrences of the conditions listed in subparagraph (B) of paragraph (2) from being disqualifying conditions under this subdivision.

(h) This section shall become operative on January 1, 2019.

SEC. 11. Section 5096.1 of the Business and Professions Code is amended to read:

5096.1. (a) Any individual, not a licensee of this state, who is engaged in any act which is the practice of public accountancy in this state, and who has not given notice of intent to practice under practice privileges and paid the fee required pursuant to the provisions of this article, and who has a license, certificate, or other authority to engage in the practice of public accountancy in any other state, regardless of whether active, inactive, suspended, or subject to renewal on payment of a fee or completion of an educational or ethics requirement, is:

(1) Deemed to be practicing public accountancy unlawfully in this state.

(2) Subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state to the same extent as a holder of a valid practice privilege.

(3) Deemed to have appointed the regulatory agency of the state that issued the individual's certificate or license as the individual's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(b) The board may prospectively deny a practice privilege to any individual who has violated this section or implementing regulations or committed any act which would be grounds for discipline against the holder of a practice privilege.

(c) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12. Section 5096.1 is added to the Business and Professions Code, to read:

5096.1. (a) Any individual, not a licensee of this state, who is engaged in any act which is the practice of public accountancy in this state, and who does not qualify to practice pursuant to the practice privilege described in Section 5096 and who has a license, certificate, or other authority to engage in the practice of public accountancy in any other state, regardless of whether active, inactive, suspended, or subject to renewal on payment of a fee or completion of an educational or ethics requirement, is:

(1) Deemed to be practicing public accountancy unlawfully in this state.

(2) Subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state to the same extent as a holder of a valid practice privilege.

(3) Deemed to have appointed the regulatory agency of the state that issued the individual's certificate or license as the individual's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(b) The board may revoke a practice privilege from any individual who has violated this section or implementing regulations or committed any act which would be grounds for discipline against the holder of a practice privilege.

(c) This section shall become operative on July 1, 2013.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 13. Section 5096.1 is added to the Business and Professions Code, to read:

5096.1. (a) Any individual, not a licensee of this state, who is engaged in any act which is the practice of public accountancy in this state, and who has not given notice of intent to practice under practice privileges and paid the fee required pursuant to the provisions of this article, and who has a license, certificate, or other authority to engage in the practice of public accountancy in any other state, regardless of whether active, inactive, suspended, or subject to renewal on payment of a fee or completion of an educational or ethics requirement, is:

(1) Deemed to be practicing public accountancy unlawfully in this state.

(2) Subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state to the same extent as a holder of a valid practice privilege.

(3) Deemed to have appointed the regulatory agency of the state that issued the individual's certificate or license as the individual's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(b) The board may prospectively deny a practice privilege to any individual who has violated this section or implementing regulations or committed any act which would be grounds for discipline against the holder of a practice privilege.

(c) This section shall become operative on January 1, 2019.

SEC. 14. Section 5096.2 of the Business and Professions Code is amended to read:

5096.2. (a) Practice privileges may be denied for failure to qualify under or comply with the provisions of this article or implementing regulations, or for any act that if committed by an applicant for licensure would be grounds for denial of a license under Section 480 or if committed by a licensee would be grounds for discipline under Section 5100, or for any act committed outside of this state that would be a violation if committed within this state.

(b) The board may deny practice privileges using either of the following procedures:

(1) Notifying the individual in writing of all of the following:

(A) That the practice privilege is denied.

(B) The reasons for denial.

(C) The earliest date on which the individual is eligible for a practice privilege.

(D) That the individual has a right to appeal the notice and request a hearing under the provisions of the Administrative Procedure Act if a written notice of appeal and request for hearing is made within 60 days.

(E) That, if the individual does not submit a notice of appeal and request for hearing within 60 days, the board's action set forth in the notice shall become final.

(2) Filing a statement of issues under the Administrative Procedure Act.

(c) An individual who had been denied a practice privilege may apply for a new practice privilege not less than one year after the effective date of the notice or decision denying the practice privilege unless a longer time period, not to exceed three years, is specified in the notice or decision denying the practice privilege.

(d) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 15. Section 5096.2 is added to the Business and Professions Code, to read:

5096.2. (a) (1) Practice privileges may be revoked for any of the following reasons:

(A) If an individual no longer qualifies under, or complies with, the provisions of this article, including, but not limited to, Section 5096, or implementing regulations.

(B) If an individual commits any act that if committed by an applicant for licensure would be grounds for denial of a license under Section 480.

(C) If an individual commits any act that if committed by a licensee would be grounds for discipline under Section 5100.

(D) If an individual commits any act outside of this state that would be a violation if committed within this state.

(E) If an individual acquires at any time, while exercising the practice privilege, any disqualifying condition under paragraph (2).

(2) Disqualifying conditions include:

(A) Conviction of any crime other than a minor traffic violation.

(B) Revocation, suspension, denial, surrender, or other discipline or sanctions involving any license, permit, registration, certificate, or other authority to practice any profession in this or any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board.

(C) Any judgment or arbitration award against the individual involving the professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or greater.

(D) Any other conditions as specified by the board in regulation.

(3) The board may adopt regulations exempting specified minor occurrences of the conditions listed in subparagraph (B) of paragraph (2) from being disqualifying conditions under this subdivision.

(b) The board may revoke practice privileges using either of the following procedures:

(1) Notifying the individual in writing of all of the following:

(A) That the practice privilege is revoked.

(B) The reasons for revocation.

(C) The earliest date on which the individual may qualify for a practice privilege.

(D) That the individual has a right to appeal the notice and request a hearing under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) if a written notice of appeal and request for hearing is made within 60 days.

(E) That, if the individual does not submit a notice of appeal and request for hearing within 60 days, the board's action set forth in the notice shall become final.

(2) Filing a statement of issues under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) An individual whose practice privilege has been revoked may only subsequently exercise the practice privilege upon application to the board for reinstatement of the practice privilege not less than one year after the effective date of the notice or decision revoking the practice privilege, unless a longer time period is specified in the notice or decision revoking the practice privilege.

(d) Holders of practice privileges are subject to suspension, fines, or other disciplinary actions for any conduct that would be grounds for discipline against a licensee of the board or for any conduct in violation of this article or regulations adopted thereunder.

(e) The board may recover its costs pursuant to Section 5107 as part of any disciplinary proceeding against the holder of a practice privilege.

(f) The provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board, shall apply under this article.

(g) If the board revokes or otherwise limits an individual's practice privilege, the board shall promptly notify the regulatory agency of the state or states in which the individual is licensed, and the United States Securities and Exchange Commission, the Public Company Accounting Oversight Board, and the National Association of State Boards of Accountancy.

(h) This section shall become operative on July 1, 2013.

(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 16. Section 5096.2 is added to the Business and Professions Code, to read:

5096.2. (a) Practice privileges may be denied for failure to qualify under or comply with the provisions of this article or implementing regulations, or for any act that if committed by an applicant for licensure would be grounds for denial of a license under Section 480 or if committed by a licensee would be grounds for discipline under Section 5100, or for any act committed outside of this state that would be a violation if committed within this state.

(b) The board may deny practice privileges using either of the following procedures:

(1) Notifying the individual in writing of all of the following:

(A) That the practice privilege is denied.

(B) The reasons for denial.

(C) The earliest date on which the individual is eligible for a practice privilege.

(D) That the individual has a right to appeal the notice and request a hearing under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) if a written notice of appeal and request for hearing is made within 60 days.

(E) That, if the individual does not submit a notice of appeal and request for hearing within 60 days, the board's action set forth in the notice shall become final.

(2) Filing a statement of issues under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) An individual who had been denied a practice privilege may apply for a new practice privilege not less than one year after the effective date of the notice or decision denying the practice privilege unless a longer time period, not to exceed three years, is specified in the notice or decision denying the practice privilege.

(d) This section shall become operative on January 1, 2019.

SEC. 17. Section 5096.3 of the Business and Professions Code is amended to read:

5096.3. (a) Practice privileges are subject to revocation, suspension, fines, or other disciplinary sanctions for any conduct that would be grounds for discipline against a licensee of the board or for any conduct in violation of this article or regulations implementing this article.

(b) Practice privileges are subject to discipline during any time period in which they are valid, under administrative suspension, or expired.

(c) The board may recover its costs pursuant to Section 5107 as part of any disciplinary proceeding against the holder of a practice privilege.

(d) An individual whose practice privilege has been revoked may apply for a new practice privilege not less than one year after the effective date of the board's decision revoking the individual's practice privilege unless a longer time period, not to exceed three years, is specified in the board's decision revoking the practice privilege.

(e) The provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board shall apply under this article.

(f) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 18. Section 5096.3 is added to the Business and Professions Code, to read:

5096.3. (a) Practice privileges are subject to revocation, suspension, fines, or other disciplinary sanctions for any conduct that would be grounds for discipline against a licensee of the board or for any conduct in violation of this article or regulations implementing this article.

(b) Practice privileges are subject to discipline during any time period in which they are valid, under administrative suspension, or expired.

(c) The board may recover its costs pursuant to Section 5107 as part of any disciplinary proceeding against the holder of a practice privilege.

(d) An individual whose practice privilege has been revoked may apply for a new practice privilege not less than one year after the effective date of the board's decision revoking the individual's practice privilege unless a longer time period, not to exceed three years, is specified in the board's decision revoking the practice privilege.

(e) The provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board shall apply under this article.

(f) This section shall become operative on January 1, 2019.

SEC. 19. Section 5096.4 of the Business and Professions Code is amended to read:

5096.4. (a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the representations made in the notice, the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this article.

(c) The administrative suspension order shall contain the following:

(1) The reason for the suspension.

(2) A statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing.

(3) A statement that any appeal hearing will be conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the denial of practice privileges.

(d) The burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer or expiration of the practice privilege under administrative suspension.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state or from applying for a new practice privilege upon expiration of the one under administrative suspension, except that the new practice privilege shall not be effective until approved by the board.

(g) Notwithstanding any administrative suspension, a practice privilege expires one year from the date of notice unless a shorter period is set by board regulation.

(h) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for denial or discipline of a practice privilege.

(i) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 20. Section 5096.4 is added to the Business and Professions Code, to read:

5096.4. (a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this article.

(c) The administrative suspension order shall contain the following:

(1) The reason for the suspension.

(2) A statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing.

(3) A statement that any appeal hearing will be conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the revocation of practice privileges.

(d) The burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state.

(g) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for revocation or discipline of a practice privilege.

(h) This section shall become operative on July 1, 2013.

(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 21. Section 5096.4 is added to the Business and Professions Code, to read:

5096.4. (a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation,

proceeding, or inquiry concerning the representations made in the notice, the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation. The board shall consult the Public Company Accounting Oversight Board and the Securities and Exchange Commission on an every six-month basis to identify out-of-state licensees who may have disqualifying conditions, or may be obliged to cease practice, and shall disclose, pursuant to this subdivision, whether those out-of-state licensees are lawfully permitted to exercise the privilege. Disclosure of this information shall not be considered discipline.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this article.

(c) The administrative suspension order shall contain the following:

(1) The reason for the suspension.

(2) A statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing.

(3) A statement that any appeal hearing will be conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the denial of practice privileges.

(d) The burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer or expiration of the practice privilege under administrative suspension.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state or from applying for a new practice privilege upon expiration of the one under administrative suspension, except that the new practice privilege shall not be effective until approved by the board.

(g) Notwithstanding any administrative suspension, a practice privilege expires one year from the date of notice unless a shorter period is set by board regulation.

(h) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for denial or discipline of a practice privilege.

(i) This section shall become operative on January 1, 2019.

SEC. 22. Section 5096.5 of the Business and Professions Code is amended to read:

5096.5. (a) Notwithstanding any other provision of this article, an individual may not sign any attest report pursuant to a practice privilege unless the individual meets the experience requirements of Section 5095 and completes any continuing education or other conditions required by the board regulations implementing this article.

(b) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 23. Section 5096.5 is added to the Business and Professions Code, to read:

5096.5. (a) Notwithstanding any other provision of this article, an individual may not sign any attest report pursuant to a practice privilege unless the individual meets the experience requirements of Section 5095.

(b) This section shall become operative on July 1, 2013.

(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 24. Section 5096.5 is added to the Business and Professions Code, to read:

5096.5. (a) Notwithstanding any other provision of this article, an individual may not sign any attest report pursuant to a practice privilege unless the individual meets the experience requirements of Section 5095 and completes any continuing education or other conditions required by the board regulations implementing this article.

(b) This section shall become operative on January 1, 2019.

SEC. 25. Section 5096.6 of the Business and Professions Code is amended to read:

5096.6. (a) In addition to the authority otherwise provided for by this code, the board may delegate to the executive officer the authority to issue any notice or order provided for in this article and to act on behalf of the board, including, but not limited to, issuing a notice of denial of a practice privilege and an interim suspension order, subject to the right of the individual to timely appeal and request a hearing as provided for in this article.

(b) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 26. Section 5096.6 is added to the Business and Professions Code, to read:

5096.6. (a) In addition to the authority otherwise provided for by this code, the board may delegate to the executive officer the authority to issue any notice or order provided for in this article and to act on behalf of the board, including, but not limited to, issuing an interim suspension order, subject to the right of the individual to timely appeal and request a hearing as provided for in this article.

(b) This section shall become operative on July 1, 2013.

(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 27. Section 5096.6 is added to the Business and Professions Code, to read:

5096.6. (a) In addition to the authority otherwise provided for by this code, the board may delegate to the executive officer the authority to issue any notice or order provided for in this article and to act on behalf of the board, including, but not limited to, issuing a notice of denial of a practice privilege and an interim suspension order, subject to the right of the individual to timely appeal and request a hearing as provided for in this article.

(b) This section shall become operative on January 1, 2019.

SEC. 28. Section 5096.7 of the Business and Professions Code is amended to read:

5096.7. Except as otherwise provided in this article, the following definitions apply:

(a) Anywhere the term “license,” “licensee,” “permit,” or “certificate” is used in this chapter or Division 1.5 (commencing with Section 475), it shall include persons holding practice privileges under this article, unless otherwise inconsistent with the provisions of the article.

(b) Any notice of practice privileges under this article and supporting documents is deemed an application for licensure for purposes of the provisions of this code, including, but not limited to, the provisions of this chapter and the provisions of Division 1.5 (commencing with Section 475) related to the denial, suspension, and revocation of licenses.

(c) Anywhere the term “employee” is used in this article it shall include, but is not limited to, partners, shareholders, and other owners.

(d) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 29. Section 5096.7 is added to the Business and Professions Code, to read:

5096.7. (a) Anywhere the term “license,” “licensee,” “permit,” or “certificate” is used in this chapter or Division 1.5 (commencing with Section 475), it shall include persons holding practice privileges under this article, unless otherwise inconsistent with the provisions of the article.

(b) Anywhere the term “employee” is used in this article it shall include, but is not limited to, partners, shareholders, and other owners.

(c) For purposes of this article, the term “license” includes certificate or permit.

(d) This section shall become operative on July 1, 2013.

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 30. Section 5096.7 is added to the Business and Professions Code, to read:

5096.7. Except as otherwise provided in this article, the following definitions apply:

(a) Anywhere the term “license,” “licensee,” “permit,” or “certificate” is used in this chapter or Division 1.5 (commencing with Section 475), it shall include persons holding practice privileges under this article, unless otherwise inconsistent with the provisions of the article.

(b) Any notice of practice privileges under this article and supporting documents is deemed an application for licensure for purposes of the provisions of this code, including, but not limited to, the provisions of this chapter and the provisions of Division 1.5 (commencing with Section 475) related to the denial, suspension, and revocation of licenses.

(c) Anywhere the term “employee” is used in this article it shall include, but is not limited to, partners, shareholders, and other owners.

(d) This section shall become operative on January 1, 2019.

SEC. 31. Section 5096.9 of the Business and Professions Code is amended to read:

5096.9. (a) The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this article.

(b) The board shall adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to establish policies, guidelines, and procedures to initially implement this article as it goes into effect on July 1, 2013. The adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State in accordance with the Administrative Procedure Act.

SEC. 32. Section 5096.10 of the Business and Professions Code is amended to read:

5096.10. (a) The provisions of this article shall only be operative if there is an appropriation from the Accountancy Fund in the annual Budget Act to fund the activities in the article and sufficient hiring authority is granted pursuant to a budget change proposal to the board to provide staffing to implement this article.

(b) This section shall become inoperative on July 1, 2013, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 33. Section 5096.10 is added to the Business and Professions Code, to read:

5096.10. (a) The provisions of this article shall only be operative if there is an appropriation from the Accountancy Fund in the annual Budget Act to fund the activities in the article and sufficient hiring authority is

granted pursuant to a budget change proposal to the board to provide staffing to implement this article.

(b) This section shall become operative on January 1, 2019.

SEC. 34. Section 5096.12 of the Business and Professions Code is amended to read:

5096.12. (a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 35. Section 5096.12 is added to the Business and Professions Code, to read:

5096.12. (a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) A firm that provides the services described in subdivision (d) of Section 5096 shall obtain a registration from the board.

(d) This section shall become operative on July 1, 2013.

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 36. Section 5096.12 is added to the Business and Professions Code, to read:

5096.12. (a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may

engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) This section shall become operative on January 1, 2019.

SEC. 37. Section 5096.13 of the Business and Professions Code is amended to read:

5096.13. (a) The notification of intent to practice under a practice privilege pursuant to Section 5096 shall include the name of the firm, its address and telephone number, and its federal taxpayer identification number.

(b) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 38. Section 5096.13 is added to the Business and Professions Code, to read:

5096.13. (a) The notification of intent to practice under a practice privilege pursuant to Section 5096 shall include the name of the firm, its address and telephone number, and its federal taxpayer identification number.

(b) This section shall become operative on January 1, 2019.

SEC. 39. Section 5096.14 of the Business and Professions Code is amended to read:

5096.14. (a) An individual shall not be deemed to be in violation of this article solely because he or she begins the practice of public accounting in California prior to notifying the board as indicated in subdivision (c) of Section 5096, provided the notice is given within five business days of the date practice begins. An individual who properly notifies the board within the five-day period provided for in this section shall be deemed to have a practice privilege from the first day of practice in California unless the individual fails to timely submit the required fee pursuant to subdivision (c) of Section 5096.

(b) Subdivision (a) does not apply in those instances in which prior approval by the board is required pursuant to subdivision (g) of Section 5096.

(c) In addition to any other applicable sanction, the board may issue a fine pursuant to Section 5096.3 for notifying the board more than five business days after beginning practice in California.

(d) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes

operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 40. Section 5096.14 is added to the Business and Professions Code, to read:

5096.14. (a) An individual shall not be deemed to be in violation of this article solely because he or she begins the practice of public accounting in California prior to notifying the board as indicated in subdivision (c) of Section 5096, provided the notice is given within five business days of the date practice begins. An individual who properly notifies the board within the five-day period provided for in this section shall be deemed to have a practice privilege from the first day of practice in California unless the individual fails to timely submit the required fee pursuant to subdivision (c) of Section 5096.

(b) Subdivision (a) does not apply in those instances in which prior approval by the board is required pursuant to subdivision (g) of Section 5096.

(c) In addition to any other applicable sanction, the board may issue a fine pursuant to Section 5096.3 for notifying the board more than five business days after beginning practice in California.

(d) This section shall become operative on January 1, 2019.

SEC. 41. Section 5096.15 of the Business and Professions Code is amended to read:

5096.15. (a) It is the intent of the Legislature that the board adopt regulations providing for a lower fee or no fee for out-of-state accountants who do not sign attest reports for California clients under the practice privilege. These regulations shall ensure that the practice privilege program is adequately funded. These regulations shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and, for purposes of that chapter, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(b) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 42. Section 5096.15 is added to the Business and Professions Code, to read:

5096.15. (a) It is the intent of the Legislature that the board adopt regulations providing for a lower fee or no fee for out-of-state accountants who do not sign attest reports for California clients under the practice privilege. These regulations shall ensure that the practice privilege program is adequately funded. These regulations shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and, for purposes of that chapter, the adoption of the regulations shall be considered

by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(b) This section shall become operative on January 1, 2019.

SEC. 43. Section 5096.20 is added to the Business and Professions Code, to read:

5096.20. (a) To ensure that Californians are protected from out-of-state licensees with disqualifying conditions who may unlawfully attempt to practice in this state under a practice privilege, prior to July 1, 2013, the board shall add an out-of-state licensee feature to its license lookup tab of the home page of its Internet Web site that allows consumers to obtain information about an individual whose principal place of business is not in this state and who seeks to exercise a practice privilege in this state, that is at least equal to the information that was available to consumers through its home page prior to January 1, 2013, through the practice privilege form previously filed by out-of-state licensees pursuant to Section 5096, as added by Chapter 921 of the Statutes of 2004, and the regulations adopted thereunder. At minimum, these features shall include all of the following:

(1) The ability of the consumer to search by name and state of licensure.

(2) The disclosure of information in the possession of the board, which the board is otherwise authorized to publicly disclose, about an individual exercising a practice privilege in this state, including, but not limited to, whether the board has taken action of any form against that individual and, if so, what the action was or is.

(3) A disclaimer that the consumer must click through prior to being referred to any other Internet Web site, which in plain language explains that the consumer is being referred to an Internet Web site that is maintained by a regulatory agency or other entity that is not affiliated with the board. This disclaimer shall include a link to relevant sections of this article that set forth disqualifying conditions, including, but not limited to, Section 5096.2.

(4) A statement in plain language that notifies consumers that they are permitted to file complaints against such individuals with the board.

(5) A link to the Internet Web site or sites that the board determines, in its discretion, provides the consumer the most complete and reliable information available about the individual's status as a licenseholder, permitholder, or certificate holder.

(6) If the board of another state does not maintain an Internet Web site that allows a consumer to obtain information about its licensees including, but not limited to, disciplinary history, and that information is not available through a link to an Internet Web site maintained by another entity, a link to contact information for that board, which contains a disclaimer in plain language that explains that the consumer is being referred to a board that does not permit the consumer to obtain information, including, but not limited to, disciplinary history, about individuals through the Internet Web site, and that the out-of-state board is not affiliated with the board.

(b) The board shall biennially survey the Internet Web sites and disclosure policies of other boards to ensure that its disclaimers are accurate.

(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 44. Section 5096.21 is added to the Business and Professions Code, to read:

5096.21. (a) On and after January 1, 2016, if the board determines, through a majority vote of the board at a regularly scheduled meeting, that allowing individuals from a particular state to practice in this state pursuant to a practice privilege as described in Section 5096, violates the board's duty to protect the public, pursuant to Section 5000.1, the board shall require, by regulation, out-of-state individuals licensed from that state, as a condition to exercising a practice privilege in this state, to file the notification form and pay the applicable fees as required by former Section 5096, as added by Chapter 921 of the Statutes of 2004, and regulations adopted thereunder.

(b) The board shall, at minimum, consider the following factors in making the determination required by subdivision (a):

(1) Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.

(2) Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet Web site to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.

(3) Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

(c) Notwithstanding subdivision (a), if (1) the National Association of State Boards of Accountancy (NASBA) adopts enforcement best practices guidelines, (2) the board, upon a majority vote at a regularly scheduled board meeting, issues a finding after a public hearing that those practices meet or exceed the board's own enforcement practices, (3) a state has in place and is operating pursuant to enforcement practices substantially equivalent to the best practices guidelines, and (4) disciplinary history of a state's licensees is publicly available through the Internet in a manner that allows the board to link consumers to an Internet Web site to obtain information at least equal to the information that was previously available to consumers through the practice privilege form filed by out-of-state licensees pursuant to former Section 5096, as added by Chapter 921 of the Statutes of 2004, no practice privilege form shall be required to be filed by any licensee of that state as required by subdivision (a), nor shall the board be required to report on that state to the Legislature as required by subdivision (d).

(d) (1) The board shall report to the relevant policy committees of the Legislature, the director, and the public, upon request, preliminary determinations made pursuant to this section no later than July 1, 2015. The board shall, prior to January 1, 2016, and thereafter as it deems appropriate,

review its determinations made pursuant to subdivision (b) to ensure that it is in compliance with this section.

(2) This subdivision shall become inoperative on July 1, 2017, pursuant to Section 10231.5 of the Government Code.

(e) On or before July 1, 2014, the board shall convene a stakeholder group consisting of members of the board, board enforcement staff, and representatives of the accounting profession and consumer representatives to consider whether the provisions of this article are consistent with the board's duty to protect the public consistent with Section 5000.1, and whether the provisions of this article satisfy the objectives of stakeholders of the accounting profession in this state, including consumers. The group, at its first meeting, shall adopt policies and procedures relative to how it will conduct its business, including, but not limited to, policies and procedures addressing periodic reporting of its findings to the board.

(f) On or before January 1, 2018, the board shall prepare a report to be provided to the relevant policy committees of the Legislature, the director, and the public, upon request, that, at minimum, explains in detail all of the following:

(1) How the board has implemented this article and whether implementation is complete.

(2) Whether this article is, in the opinion of the board, more, less, or equivalent in the protection it affords the public than its predecessor article.

(3) Describes how other state boards of accountancy have addressed referrals to those boards from the board, the timeframe in which those referrals were addressed, and the outcome of investigations conducted by those boards.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 45. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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Senate Bill No. 822

CHAPTER 319

An act to amend Sections 5096, 5096.2, 5096.12, 7026.1, 7065.3, 7114, 7141, 7206, 7210, 7887, 9807, and 17914 of, to add Section 7851 to, and to repeal Sections 102.1 and 102.2 of, the Business and Professions Code, and to amend Section 44011 of the Health and Safety Code, relating to professions and vocations, and making an appropriation therefor.

[Approved by Governor September 20, 2013. Filed with
Secretary of State September 20, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 822, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Existing law requires that certain actions take place with regard to the Cemetery Board and Funeral Directors and Embalmers Board and the Structural Pest Control Board by January 1, 1996.

This bill would delete those provisions.

(2) Existing law, between July 1, 2013, and January 1, 2019, authorizes an individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state to engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license, if certain conditions are met.

This bill would add the condition that the individual is required to notify the Board of Accountancy of any pending criminal charges in any jurisdiction, other than for a minor traffic violation.

Existing law, between July 1, 2013, and January 1, 2019, authorizes a certified public accounting firm that is authorized to practice in another state and that does not have an office in this state to engage in the practice of public accountancy in this state through the holder of a practice privilege, and the board is authorized to revoke, suspend, issue a fine, as provided, or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

This bill would also authorize the board to issue a citation and fine, as provided, under the general powers given to the board as a part of the Department of Consumer Affairs.

(3) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors in this state. Existing law defines the term "contractor" to mean, among other things, any person, consultant to an owner-builder, corporation, or company who or which undertakes, offers to undertake, purports to have the capacity to undertake, or submits

a bid to construct any building or home improvement project, or a part thereof.

Under existing law, a contractor's license that has expired may be renewed at any time within 5 years after its expiration by filing an application for renewal on a form prescribed by the registrar of contractors, and payment of the appropriate renewal fee. If the license is renewed after the expiration date, existing law requires the licensee to also pay a delinquency fee. The registrar of contractors is required to conduct a comprehensive field investigation of no less than 3% of applications for an additional classification on a contractor's license based upon experience and without further examination to ensure that the applicants met the experience requirements and to make public, at quarterly meetings of the Contractors' State License Board, a listing of all additional classification applications approved during the previous 12 months, including, but not limited to, the name of the applicant, license number, classification applied for, and existing classifications.

This bill would provide that the term "contractor" or "consultant" does not apply to a common interest development manager, and a common interest development manager is not required to have a contractor's license when performing management services, as defined.

The bill would provide an exception to the requirement to pay the delinquency fee where an incomplete renewal application, that had originally been submitted on or before the license expiration date, was returned to the licensee by the registrar with an explanation of the reasons for its rejection and a corrected and acceptable renewal application is returned by the licensee within 30 days after the license expiration date. The bill would also require that the license reflect an expired status for any period between the expiration date and the date of submission of a correct and acceptable renewal application. The bill would delete the requirement that the registrar's investigation be a field investigation, and would delete the requirement that the registrar make public, at quarterly meetings of the Contractors' State License Board, the listing of all additional classification applications approved during the previous 12 months.

(4) Existing law, until January 1, 2014, provides that there is in the Department of Consumer Affairs a State Board of Guide Dogs for the Blind that has exclusive authority to issue licenses for the instruction of blind persons in the use of guide dogs, for the training of guide dogs for use by blind persons, to operate schools for the training of guide dogs for the blind, and for the instruction of blind persons in the use of guide dogs. Existing law requires the board to hold regular meetings at least once a year at which an examination of applicants for certificates of registration is to be given.

This bill would delete the regular meeting requirement.

(5) Existing law, the Geologist and Geophysicist Act, provides for the licensure, regulation, and discipline of professional geologists and geophysicists by the Board for Professional Engineers, Land Surveyors, and Geologists. A violation of the act is a misdemeanor. Existing law creates the Geology and Geophysics Account of the Professional Engineer's and

Land Surveyor's Fund, which is a continuously appropriated fund, into which fees prescribed by the act are deposited.

This bill would create a new category of licensure, to be known as a "retired license," for a geologist or geophysicist who meets specified qualifications and would prescribe fees necessary to obtain a retired license, as well as restrictions on holders of the license. The bill would also specify the title that the holder of a retired license is authorized to use. Because a violation of these requirements would be a crime, the bill would impose a state-mandated local program. Because the bill would increase moneys deposited into a continuously appropriated fund, the bill would make an appropriation.

(6) Existing law requires any person who regularly transacts business in this state for profit under a fictitious business name to do several things, including, but not limited to, filing a fictitious business name statement not later than 40 days from the time the registrant commences to transact business. Existing law requires the statement to be signed by the husband or wife if the registrants are husband and wife.

This bill would instead provide that the statement shall be signed by either party to the marriage if the registrants are a married couple.

(7) Existing law authorizes service dealers, licensed by the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation, to install, calibrate, service, maintain, and monitor ignition interlock devices.

This bill would limit that authorization to those licensed persons who are authorized to engage in the electronic repair industry, as defined.

(8) Existing law establishes a motor vehicle inspection and maintenance (smog check) program administered by the Department of Consumer Affairs.

This bill would correct an erroneous cross-reference with respect to that program.

(9) This bill would incorporate changes to Section 7887 of the Business and Professions Code proposed by SB 152 that would become operative if this bill and SB 152 are both chaptered and this bill is chaptered last.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 102.1 of the Business and Professions Code is repealed.

SEC. 2. Section 102.2 of the Business and Professions Code is repealed.

SEC. 3. Section 5096 of the Business and Professions Code, as added by Section 9 of Chapter 411 of the Statutes of 2012, is amended to read:

5096. (a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least 4 of the last 10 years.

(2) The individual has a license, certificate, or permit from a state that has been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure that have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) An individual who qualifies for the practice privilege under this section may engage in the practice of public accountancy in this state, and no notice, fee, or other requirement shall be imposed on that individual by the board.

(d) An individual who qualifies for the practice privilege under this section may perform the following services only through a firm of certified public accountants that has obtained a registration from the board pursuant to Section 5096.12:

(1) An audit or review of a financial statement for an entity headquartered in California.

(2) A compilation of a financial statement when that person expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence for an entity headquartered in California.

(3) An examination of prospective financial information for an entity headquartered in California.

(e) An individual who holds a practice privilege under this article:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when the individual has met the examination and continuing education requirements of the state in which

the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand, or subpoena for information or documents and timely provide to the board the identified information and documents.

(6) Shall cease exercising the practice privilege in this state if the regulatory agency in the state in which the individual's certificate, license, or permit was issued takes disciplinary action resulting in the suspension or revocation, including stayed suspension, stayed revocation, or probation of the individual's certificate, license, or permit, or takes other disciplinary action against the individual's certificate, license, or permit that arises from any of the following:

(A) Gross negligence, recklessness, or intentional wrongdoing relating to the practice of public accountancy.

(B) Fraud or misappropriation of funds.

(C) Preparation, publication, or dissemination of false, fraudulent, or materially incomplete or misleading financial statements, reports, or information.

(7) Shall cease exercising the practice privilege in this state if convicted in any jurisdiction of any crime involving dishonesty, including, but not limited to, embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(8) Shall cease exercising the practice privilege if the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board bars the individual from practicing before them.

(9) Shall cease exercising the practice privilege if any governmental body or agency suspends the right of the individual to practice before the body or agency.

(10) Shall notify the board of any pending criminal charges, other than for a minor traffic violation, in any jurisdiction.

(f) An individual who is required to cease practice pursuant to paragraphs (6) to (9), inclusive, of subdivision (e) shall notify the board within 15 calendar days, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until he or she has received from the board written permission to do so.

(g) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by subdivision (f) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or (f) shall, for a minimum of one year from the date the board learns there has been a violation of subdivision (e) or (f), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years.

(h) The board shall require an individual who provides notice to the board pursuant to subdivision (f) to cease the practice of public accountancy in this state until the board provides the individual with written permission to resume the practice of public accountancy in this state.

(i) (1) An individual to whom, within the last seven years immediately preceding the date on which he or she wishes to practice in this state, any of the following criteria apply, shall notify the board, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until the board provides the individual with written permission to do so:

(A) He or she has been the subject of any final disciplinary action by the licensing or disciplinary authority of any other jurisdiction with respect to any professional license or has any charges of professional misconduct pending against him or her in any other jurisdiction.

(B) He or she has had his or her license in another jurisdiction reinstated after a suspension or revocation of the license.

(C) He or she has been denied issuance or renewal of a professional license or certificate in any other jurisdiction for any reason other than an inadvertent administrative error.

(D) He or she has been convicted of a crime or is subject to pending criminal charges in any jurisdiction other than a minor traffic violation.

(E) He or she has otherwise acquired a disqualifying condition as described in subdivision (a) of Section 5096.2.

(2) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by paragraph (1) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or paragraph (1) shall, for a minimum of one year from the date the board knows there has been a violation of subdivision (e) or paragraph (1), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual shall be prohibited from practicing in this state in the same manner as if a licensee has his or her practice privilege revoked and there shall be no possibility of reinstatement for a minimum of two years.

(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 4. Section 5096.2 of the Business and Professions Code, as added by Section 15 of Chapter 411 of the Statutes of 2012, is amended to read:

5096.2. (a) (1) Practice privileges may be revoked for any of the following reasons:

(A) If an individual no longer qualifies under, or complies with, the provisions of this article, including, but not limited to, Section 5096, or implementing regulations.

(B) If an individual commits any act that if committed by an applicant for licensure would be grounds for denial of a license under Section 480.

(C) If an individual commits any act that if committed by a licensee would be grounds for discipline under Section 5100.

(D) If an individual commits any act outside of this state that would be a violation if committed within this state.

(E) If an individual acquires at any time, while exercising the practice privilege, any disqualifying condition under paragraph (2).

(2) Disqualifying conditions include:

(A) Conviction of any crime other than a minor traffic violation.

(B) Revocation, suspension, denial, surrender, or other discipline or sanctions involving any license, permit, registration, certificate, or other authority to practice any profession in this or any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board.

(C) Any judgment or arbitration award against the individual involving the professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or greater.

(D) Any other conditions as specified by the board in regulation.

(3) The board may adopt regulations exempting specified minor occurrences of the conditions listed in subparagraph (B) of paragraph (2) from being disqualifying conditions under this subdivision.

(b) The board may revoke practice privileges using either of the following procedures:

(1) Notifying the individual in writing of all of the following:

(A) That the practice privilege is revoked.

(B) The reasons for revocation.

(C) The earliest date on which the individual may qualify for a practice privilege.

(D) That the individual has a right to appeal the notice and request a hearing under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) if a written notice of appeal and request for hearing is made within 60 days.

(E) That, if the individual does not submit a notice of appeal and request for hearing within 60 days, the board's action set forth in the notice shall become final.

(2) Filing a statement of issues under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) An individual whose practice privilege has been revoked may only subsequently exercise the practice privilege upon application to the board for reinstatement of the practice privilege not less than one year after the effective date of the notice or decision revoking the practice privilege, unless a longer time period is specified in the notice or decision revoking the practice privilege.

(d) Holders of practice privileges are subject to suspension, citations, fines, or other disciplinary actions for any conduct that would be grounds for discipline against a licensee of the board or for any conduct in violation of this article or regulations adopted thereunder.

(e) The board may recover its costs pursuant to Section 5107 as part of any disciplinary proceeding against the holder of a practice privilege.

(f) The provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board, shall apply under this article.

(g) If the board revokes or otherwise limits an individual's practice privilege, the board shall promptly notify the regulatory agency of the state or states in which the individual is licensed, and the United States Securities and Exchange Commission, the Public Company Accounting Oversight Board, and the National Association of State Boards of Accountancy.

(h) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 5. Section 5096.12 of the Business and Professions Code, as added by Section 35 of Chapter 411 of the Statutes of 2012, is amended to read:

5096.12. (a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), issue a citation and fine pursuant to Section 125.9, or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) A firm that provides the services described in subdivision (d) of Section 5096 shall obtain a registration from the board.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 6. Section 7026.1 of the Business and Professions Code is amended to read:

7026.1. (a) The term “contractor” includes all of the following:

(1) Any person not exempt under Section 7053 who maintains or services air-conditioning, heating, or refrigeration equipment that is a fixed part of the structure to which it is attached.

(2) (A) Any person, consultant to an owner-builder, firm, association, organization, partnership, business trust, corporation, or company, who or which undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct any building or home improvement project, or part thereof.

(B) For purposes of this paragraph, a consultant is a person, other than a public agency or an owner of privately owned real property to be improved, who meets either of the following criteria as it relates to work performed pursuant to a home improvement contract as defined in Section 7151.2:

(i) Provides or oversees a bid for a construction project.

(ii) Arranges for and sets up work schedules for contractors and subcontractors and maintains oversight of a construction project.

(3) A temporary labor service agency that, as the employer, provides employees for the performance of work covered by this chapter. The provisions of this paragraph shall not apply if there is a properly licensed contractor who exercises supervision in accordance with Section 7068.1 and who is directly responsible for the final results of the work. Nothing in this paragraph shall require a qualifying individual, as provided in Section 7068, to be present during the supervision of work covered by this chapter. A contractor requesting the services of a temporary labor service agency shall provide his or her license number to that temporary labor service agency.

(4) Any person not otherwise exempt by this chapter, who performs tree removal, tree pruning, stump removal, or engages in tree or limb cabling or guying. The term contractor does not include a person performing the activities of a nurseryperson who in the normal course of routine work performs incidental pruning of trees, or guying of planted trees and their limbs. The term contractor does not include a gardener who in the normal course of routine work performs incidental pruning of trees measuring less than 15 feet in height after planting.

(5) Any person engaged in the business of drilling, digging, boring, or otherwise constructing, deepening, repairing, re-perforating, or abandoning any water well, cathodic protection well, or monitoring well.

(b) The term “contractor” or “consultant” does not include a common interest development manager, as defined in Section 11501, and a common interest development manager is not required to have a contractor’s license when performing management services, as defined in subdivision (d) of Section 11500.

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Senate Bill No. 1467

CHAPTER 400

An act to amend Sections 5000, 5070, 5070.5, 5093, 5096, 5096.4, 6730.2, 6735, 6759, 7842, 7860, 8771, 17901, 17913, 17914, 17916, and 22454 of, and to add Sections 7864 and 8725.1 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 17, 2014. Filed with
Secretary of State September 17, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1467, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Under existing law, the California Board of Accountancy licenses and regulates accountants. The board consists of 15 members, and of those the Governor is required to appoint 7 members who are licensees representing a cross section of the accounting profession with at least 2 members representing a small public professional firm, as defined. Existing law prohibits a person from engaging in the practice of public accountancy in this state unless he or she holds either a valid permit issued by the board or a practice privilege, as specified. Existing law requires an applicant for registration to furnish satisfactory evidence that the applicant is entitled to registration.

This bill would delete the requirement that 2 of the board members represent a small public professional firm. The bill would authorize the board to collect, but not require, a valid electronic mail address at the time of application for, or renewal of, a certified public accountant license. The bill would provide that these electronic mail addresses shall not be considered public records and would prohibit these electronic mail addresses from being disclosed pursuant to specified provisions of law, unless required pursuant to a court order.

Existing law sets forth education, examination, and experience requirements for a certified public accountant license, and requires an applicant to show, to the satisfaction of the board, that he or she has one year of qualifying experience, including any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. Existing law requires the experience to have been performed in accordance with applicable professional standards in order to qualify, and to be completed under the supervision or in the employ of a person licensed to engage in the practice of public accountancy, as specified.

This bill would authorize the board, by regulation, to allow experience in academia to satisfy the one-year requirement described above.

Existing law, until January 1, 2019, authorizes an individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state to engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license, if certain conditions are met. Existing law subjects an individual who holds a practice privilege to certain requirements, including, among others, that the individual shall notify the board of any pending criminal charges, other than a minor traffic violation, in any jurisdiction.

This bill would instead subject an individual holding and exercising a practice privilege in this state to the requirements described above. The bill would also require the individual to report the criminal charges described above to the board in writing within 30 days of the date the individual has knowledge of those charges.

Existing law, until January 1, 2019, authorizes the board to administratively suspend an individual's right to practice in this state under a practice privilege at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the representations made in the notice, the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation. Existing law, beginning January 1, 2019, additionally requires the board to consult the Public Company Accounting Oversight Board (PCAOB) and the United States Securities and Exchange Commission on an every 6-month basis to identify out-of-state licensees who may have disqualifying conditions or may be obliged to cease practice, and to disclose whether those out-of-state licensees are lawfully permitted to exercise the privilege. Existing law provides that disclosure of this information is not to be considered discipline.

This bill would instead require the board to consult with the PCAOB and the United States Securities and Exchange Commission at least once every 6 months, as specified, until January 1, 2019, and would delete those provisions after that date.

This bill would make technical, nonsubstantive changes, and would delete an obsolete provision.

(2) The Professional Engineers Act provides for the regulation and licensure of professional engineers by the Board for Professional Engineers, Land Surveyors, and Geologists. Existing law requires all civil engineering plans, calculations, specifications, and reports to be prepared by, or under the responsible charge of, a licensed civil engineer, as specified.

This bill would require all civil engineering plans, calculations, specifications, and reports for the construction of all hospitals and other medical facilities having surgery and emergency treatment areas to be prepared by, or under the responsible charge of, a licensed civil engineer who is also licensed as a structural engineer. The bill would require that all civil engineering plans, calculations, specifications, and reports for the

construction of all public school structures be prepared by, or under the responsible charge of, a licensed architect holding a valid certificate or a licensed civil engineer who is also licensed as a structural engineer.

Existing law requires an applicant for registration as a professional engineer, among other things, to furnish evidence of 6 years or more of qualifying experience in engineering work, as specified, and to successfully pass the second division of the licensure examination. Existing law authorizes the board to issue a certificate of registration as a professional engineer, without a written examination, to a person holding a certificate of registration issued by another state or country if the applicant's qualifications meet the requirements of the act. For purposes of these provisions, the act requires equivalent second division examinations to be 8-hour written examinations prepared or administered by a state or territory, as specified.

This bill would delete the requirement that an equivalent second division examination be an 8-hour examination.

(3) Under the Geologist and Geophysicist Act, the Board for Professional Engineers, Land Surveyors, and Geologists registers and regulates professional geologists and professional geophysicists and certifies applicants in specialties in geology and geologists-in-training. Existing law requires an applicant seeking certification as a petroleum geologist to meet certain requirements including, among other things, having performed a minimum of 3 years of professional geological work under the supervision of a registered petroleum engineer.

This bill would delete the provisions relating to petroleum geologists described above. The bill would also make technical, nonsubstantive changes to one of these provisions.

Existing law, under the Geologist and Geophysicist Act, sets forth procedures for the discipline of a registrant or certificate holder, as specified, subject to provisions governing administrative proceedings.

This bill would set forth additional procedures that would apply to a registrant or certificate holder who has been subject to discipline and who petitions the board for reinstatement or modification of penalty, as specified.

(4) Existing law, the Professional Land Surveyors' Act, provides for the licensing and regulation of professional land surveyors by the Board for Professional Engineers, Land Surveyors, and Geologists. The act requires that land survey monuments be set sufficient in number and durability and efficiently placed so as not to be readily disturbed and to ensure the perpetuation or easy reestablishment of a survey point or line. The act makes a violation of its provisions a misdemeanor.

The Professional Engineers Act provides for the licensing and regulation of professional engineers by the Board for Professional Engineers, Land Surveyors, and Geologists. The act states the intent of the Legislature that the act's registration requirements that are imposed on private professional engineers are also imposed on public entities and requires that at least one registered engineer be designated the person in responsible charge of professional engineering work for each branch of professional engineering

practiced in any department or agency of the state, city, county, or city and county. The act makes a violation of its provisions a misdemeanor.

This bill would require that at least one person authorized to practice land surveying be designated the person in responsible charge of professional land surveying work practiced in any department or agency of the state, city, county, city and county, district, or special district. The bill would revise nomenclature associated with actions that affect land survey monuments. The bill would require that the governmental agency performing or permitting construction or maintenance work be responsible for ensuring that the landowner or governmental agency performing the work provides for monument perpetuation. The bill would require that the designated person in responsible charge of professional civil engineering work for a governmental entity, pursuant to the Professional Engineers Act, be responsible for the requirements associated with monuments under the Professional Land Surveyors' Act, as described above. By creating new duties for local officials and expanding the definition of a crime, the bill would impose a state-mandated local program.

(5) Existing law requires a person transacting business in the state under a fictitious name, as defined, to file with the county clerk of the county where the business is located a statement including specified information and to declare that the information is true and correct. Existing law requires that a registrant or an agent filing on behalf of a registrant present a California driver's license or other personal government identification acceptable to the county clerk to adequately determine the registrant's identity or agent's identity, as specified. Existing law authorizes the county clerk to require the registrant to complete and sign an affidavit of identity statement on a form prescribed by the county clerk, and to require an agent submitting the filings on behalf of a registrant to also complete and sign an affidavit of identity statement declaring that the registrant has authorized the agent to make the filings on behalf of the registrant. Existing law requires a registrant that is a corporation, limited liability company, or limited liability partnership, and that is required by the county clerk to file an affidavit of identity statement, to submit with its affidavit a certificate of status issued by the Secretary of State certifying to that business entity's existence and good standing.

This bill would instead authorize the county clerk to require a registrant that is a corporation, limited partnership, limited liability company, or limited liability partnership to submit documentary evidence issued by the Secretary of State indicating the current existence and good standing of that business entity, deemed acceptable by the county clerk, with a notarized affidavit of identity. The bill would further authorize the county clerk to require an agent filing on behalf of the registrant to submit a notarized statement signed by the registrant declaring the registrant has authorized the agent to submit the filing. The bill would also make clarifying changes to these provisions.

(6) Existing law defines and regulates the activities of professional photocopiers, as defined. Existing law requires a professional photocopier to be registered by the county clerk, and provides that a certificate of

registration is effective for a 2-year period. Existing law also requires at least one person involved in the management of a professional photocopier to be a licensed notary public. Failure to comply with these provisions is a misdemeanor.

This bill would require the notary commission to remain valid during the 2-year period that the professional photocopier’s certificate of registration is effective. The bill would also require the registrant to notify the county clerk and provide an updated valid notary commission if the commission expires prior to the expiration of the certificate of registration. By expanding a crime, the bill would create a state-mandated local program.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(8) Existing constitutional provisions require that a statute that limits the right of access to meetings of public bodies or the writings of public officials and agencies be adopted with findings and declarations demonstrating the interest protected by that limitation and the need for protecting that interest.

This bill would make a legislative finding and declaration relating to the necessity of treating as confidential electronic mail addresses provided to the California Board of Accountancy in order to protect the privacy of those individuals applying for a certified public accountant license.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that in order to protect the privacy of those individuals applying for a certified public accountant license, it is necessary that electronic mail addresses provided to the California Board of Accountancy pursuant to Sections 3 and 4 of this act be confidential.

SEC. 2. Section 5000 of the Business and Professions Code is amended to read:

5000. (a) There is in the Department of Consumer Affairs the California Board of Accountancy, which consists of 15 members, 7 of whom shall be licensees, and 8 of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

(b) The Governor shall appoint four of the public members, and the seven licensee members as provided in this section. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint two public

members. In appointing the seven licensee members, the Governor shall appoint individuals representing a cross section of the accounting profession.

(c) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

(d) Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature. However, the review of the board shall be limited to reports or studies specified in this chapter and those issues identified by the appropriate policy committees of the Legislature and the board regarding the implementation of new licensing requirements.

SEC. 3. Section 5070 of the Business and Professions Code is amended to read:

5070. (a) Permits to engage in the practice of public accountancy in this state shall be issued by the board only to holders of the certificate of certified public accountant issued under this chapter and to those partnerships, corporations, and other persons who, upon application approved by the board, are registered with the board under this chapter. Notwithstanding any other law, the board may register an entity organized and authorized to practice public accountancy under the laws of another state for the purpose of allowing that entity to satisfy the registration requirement set forth in Section 5096.12, if (1) the certified public accountants providing services in California qualify for the practice privilege, and (2) the entity satisfies all other requirements to register in this state, other than its form of legal organization.

(b) All applicants for registration shall furnish satisfactory evidence that the applicant is entitled to registration and shall pay the fee as provided in Article 8 (commencing with Section 5130). Every partnership, corporation, and other person to whom a permit is issued shall, in addition to any other fee that may be payable, pay the initial permit fee provided in Article 8 (commencing with Section 5130).

(c) The board may collect, but shall not require, a valid electronic mail address at the time of application for a certified public accountant license. In the interest of protecting an applicant's privacy, the electronic mail address shall not be considered a public record and shall not be disclosed pursuant to Section 27 or pursuant to a request under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), unless required pursuant to a court order by a court of competent jurisdiction.

(d) Each partnership, corporation, and other person issued a permit by the board to practice as a certified public accountant or as a public accountant shall be furnished with a suitable certificate evidencing that registration.

SEC. 4. Section 5070.5 of the Business and Professions Code is amended to read:

5070.5. (a) (1) A permit issued under this chapter to a certified public accountant or a public accountant expires at 12 midnight on the last day of

the month of the legal birthday of the licensee during the second year of a two-year term if not renewed.

(2) To renew an unexpired permit, a permitholder shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed by this chapter, and give evidence satisfactory to the board that he or she has complied with the continuing education provisions of this chapter.

(3) The board may collect, but shall not require, a valid electronic mail address on the renewal form described in paragraph (1). In the interest of protecting an applicant's privacy, the electronic mail address shall not be considered a public record and shall not be disclosed pursuant to Section 27 or pursuant to a request under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), unless required pursuant to a court order by a court of competent jurisdiction.

(b) A permit to practice as an accountancy partnership or an accountancy corporation expires at 12 midnight on the last day of the month in which the permit was initially issued during the second year of a two-year term if not renewed. To renew an unexpired permit, the permitholder shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed by this chapter, and provide evidence satisfactory to the board that the accountancy partnership or accountancy corporation is in compliance with this chapter.

SEC. 5. Section 5093 of the Business and Professions Code is amended to read:

5093. (a) To qualify for the certified public accountant license, an applicant who is applying under this section shall meet the education, examination, and experience requirements specified in subdivisions (b), (c), and (d), or otherwise prescribed pursuant to this article. The board may adopt regulations as necessary to implement this section.

(b) (1) An applicant for admission to the certified public accountant examination under this section shall present satisfactory evidence that the applicant has completed a baccalaureate or higher degree conferred by a degree-granting university, college, or other institution of learning accredited by a regional or national accrediting agency included in a list of these agencies published by the United States Secretary of Education under the requirements of the federal Higher Education Act of 1965 as amended (20 U.S.C. Sec. 1001 et seq.), or meeting, at a minimum, the standards described in subdivision (c) of Section 5094. The total educational program shall include a minimum of 24 semester units in accounting subjects and 24 semester units in business-related subjects. This evidence shall be provided at the time of application for admission to the examination, except that an applicant who applied, qualified, and sat for at least two subjects of the examination for the certified public accountant license before May 15, 2002, may provide this evidence at the time of application for licensure.

(A) An applicant enrolled in a program at an institution as described in this paragraph that grants conferral of a baccalaureate degree upon

completion of the 150 semester units required by paragraph (2) of this subdivision may satisfy the requirements of this paragraph if the applicant's institution mails the applicant's official transcript or its equivalent together or separately with a letter signed by the institution's registrar, or its equivalent, directly to the board pursuant to subdivision (c) of Section 5094. The letter shall include all of the following:

(i) A statement that the applicant is enrolled and in good standing in a program that will result in the conferral of a baccalaureate degree upon completion of either a master's degree or the 150 semester units required by paragraph (2) of this subdivision.

(ii) A statement that the applicant has completed all requirements, including general education and elective requirements, for a baccalaureate degree and the only reason the college or university has yet to confer the degree is because the applicant is enrolled in a program that confers a baccalaureate degree upon completion of either a master's degree or the 150 semester units required by paragraph (2) of this subdivision.

(iii) The date on which the applicant met all of the college's or university's requirements for conferral of a baccalaureate degree.

(B) The total educational program for an applicant described in subparagraph (A) shall include a minimum of 24 semester units in accounting subjects and 24 semester units in business-related subjects. This evidence shall be provided at the time of application for admission to the examination, except that an applicant who applied, qualified, and sat for at least two subjects of the examination for the certified public accountant license before May 15, 2002, may provide this evidence at the time of application for licensure.

(2) An applicant for issuance of the certified public accountant license under this section shall present satisfactory evidence that the applicant has completed at least 150 semester units of college education, including a baccalaureate or higher degree conferred by a college or university, meeting, at a minimum, the standards described in Section 5094, the total educational program to include a minimum of 24 semester units in accounting subjects, 24 semester units in business-related subjects, and, after December 31, 2013, shall also include a minimum of 10 units of ethics study consistent with the requirements set forth in Section 5094.3 and 20 units of accounting study consistent with the regulations promulgated under subdivision (c) of Section 5094.6. This evidence shall be presented at the time of application for the certified public accountant license. Nothing in this paragraph shall be deemed inconsistent with Section 5094 or 5094.6. Nothing in this paragraph shall be construed to be inconsistent with prevailing academic practice regarding the completion of units.

(c) An applicant for the certified public accountant license shall pass an examination prescribed by the board.

(d) (1) The applicant shall show, to the satisfaction of the board, that the applicant has had one year of qualifying experience. This experience may include providing any type of service or advice involving the use of

accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills.

(2) To be qualifying under this section, experience shall have been performed in accordance with applicable professional standards. Experience in public accounting shall be completed under the supervision or in the employ of a person licensed or otherwise having comparable authority under the laws of any state or country to engage in the practice of public accountancy. Experience in private or governmental accounting or auditing shall be completed under the supervision of an individual licensed by a state to engage in the practice of public accountancy.

(3) Notwithstanding paragraph (2), the board may, by regulation, allow experience in academia to be qualifying under this section.

(e) Applicants completing education at a college or university located outside of this state, meeting, at a minimum, the standards described in Section 5094, shall be deemed to meet the educational requirements of this section if the board determines that the education is substantially equivalent to the standards of education specified under this chapter.

(f) An applicant who has successfully passed the examination requirement specified under Section 5082 on or before December 31, 2013, may qualify for the certified public accountant license without satisfying the 10 semester units of study set forth in Section 5094.3 or 20 semester units of accounting study consistent with the regulations promulgated under Section 5094.6, if the applicant completes all other requirements for the issuance of a license on or before December 31, 2015.

SEC. 6. Section 5096 of the Business and Professions Code, as amended by Section 3 of Chapter 319 of the Statutes of 2013, is amended to read:

5096. (a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least 4 of the last 10 years.

(2) The individual has a license, certificate, or permit from a state that has been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure that have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) An individual who qualifies for the practice privilege under this section may engage in the practice of public accountancy in this state, and a notice, fee, or other requirement shall not be imposed on that individual by the board.

(d) An individual who qualifies for the practice privilege under this section may perform the following services only through a firm of certified public accountants that has obtained a registration from the board pursuant to Section 5096.12:

(1) An audit or review of a financial statement for an entity headquartered in California.

(2) A compilation of a financial statement when that person expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence for an entity headquartered in California.

(3) An examination of prospective financial information for an entity headquartered in California.

(e) An individual who holds a practice privilege under this article, and is exercising the practice privilege in California:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state, except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when the individual has met the examination and continuing education requirements of the state in which the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand, or subpoena for information or documents and timely provide to the board the identified information and documents.

(6) Shall cease exercising the practice privilege in this state if the regulatory agency in the state in which the individual's certificate, license, or permit was issued takes disciplinary action resulting in the suspension or revocation, including stayed suspension, stayed revocation, or probation

of the individual's certificate, license, or permit, or takes other disciplinary action against the individual's certificate, license, or permit that arises from any of the following:

(A) Gross negligence, recklessness, or intentional wrongdoing relating to the practice of public accountancy.

(B) Fraud or misappropriation of funds.

(C) Preparation, publication, or dissemination of false, fraudulent, or materially incomplete or misleading financial statements, reports, or information.

(7) Shall cease exercising the practice privilege in this state if convicted in any jurisdiction of any crime involving dishonesty, including, but not limited to, embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(8) Shall cease exercising the practice privilege if the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board bars the individual from practicing before them.

(9) Shall cease exercising the practice privilege if any governmental body or agency suspends the right of the individual to practice before the body or agency.

(10) Shall report to the board in writing any pending criminal charges, other than for a minor traffic violation, in any jurisdiction within 30 days of the date the individual has knowledge of those charges.

(f) An individual who is required to cease practice pursuant to paragraphs (6) to (9), inclusive, of subdivision (e) shall notify the board within 15 calendar days, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until he or she has received from the board written permission to do so.

(g) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by subdivision (f) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or (f) shall, for a minimum of one year from the date the board learns there has been a violation of subdivision (e) or (f), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years.

(h) The board shall require an individual who provides notice to the board pursuant to subdivision (f) to cease the practice of public accountancy in this state until the board provides the individual with written permission to resume the practice of public accountancy in this state.

(i) (1) An individual to whom, within the last seven years immediately preceding the date on which he or she wishes to practice in this state, any of the following criteria apply, shall notify the board, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant

to this section until the board provides the individual with written permission to do so:

(A) He or she has been the subject of any final disciplinary action by the licensing or disciplinary authority of any other jurisdiction with respect to any professional license or has any charges of professional misconduct pending against him or her in any other jurisdiction.

(B) He or she has had his or her license in another jurisdiction reinstated after a suspension or revocation of the license.

(C) He or she has been denied issuance or renewal of a professional license or certificate in any other jurisdiction for any reason other than an inadvertent administrative error.

(D) He or she has been convicted of a crime or is subject to pending criminal charges in any jurisdiction other than a minor traffic violation.

(E) He or she has otherwise acquired a disqualifying condition as described in subdivision (a) of Section 5096.2.

(2) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by paragraph (1) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or paragraph (1) shall, for a minimum of one year from the date the board knows there has been a violation of subdivision (e) or paragraph (1), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual shall be prohibited from practicing in this state in the same manner as if a licensee has his or her practice privilege revoked and there shall be no possibility of reinstatement for a minimum of two years.

(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 7. Section 5096.4 of the Business and Professions Code, as added by Section 20 of Chapter 411 of the Statutes of 2012, is amended to read:

5096.4. (a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation. The board shall consult the Public Company Accounting Oversight Board and the United States Securities and Exchange Commission at least once every six months to identify out-of-state licensees who may have disqualifying conditions or who may be obliged to cease practice, and shall disclose, pursuant to this subdivision, whether those out-of-state licensees are lawfully

permitted to exercise the privilege. Disclosure of this information shall not be considered discipline.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this article.

(c) The administrative suspension order shall contain the following:

(1) The reason for the suspension.

(2) A statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing.

(3) A statement that any appeal hearing will be conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the revocation of practice privileges.

(d) The burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state.

(g) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for revocation or discipline of a practice privilege.

(h) This section shall become operative on July 1, 2013.

(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 8. Section 5096.4 of the Business and Professions Code, as added by Section 21 of Chapter 411 of the Statutes of 2012, is amended to read:

5096.4. (a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the representations made in the notice, the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this article.

(c) The administrative suspension order shall contain the following:

(1) The reason for the suspension.

(2) A statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing.

(3) A statement that any appeal hearing will be conducted under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the denial of practice privileges.

(d) The burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer or expiration of the practice privilege under administrative suspension.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state or from applying for a new practice privilege upon expiration of the one under administrative suspension, except that the new practice privilege shall not be effective until approved by the board.

(g) Notwithstanding any administrative suspension, a practice privilege expires one year from the date of notice unless a shorter period is set by board regulation.

(h) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for denial or discipline of a practice privilege.

(i) This section shall become operative on January 1, 2019.

SEC. 9. Section 6730.2 of the Business and Professions Code is amended to read:

6730.2. (a) It is the intent of the Legislature that the licensure requirements that are imposed upon private sector professional engineers and engineering partnerships, firms, or corporations shall be imposed upon the state and any city, county, or city and county that shall adhere to those requirements. Therefore, for the purposes of Section 6730 and this chapter, at least one licensed engineer shall be designated the person in responsible charge of professional engineering work for each branch of professional engineering practiced in any department or agency of the state, city, county, or city and county.

(b) Any department or agency of the state or any city, county, or city and county that has an unlicensed person in responsible charge of engineering work on January 1, 1985, shall be exempt from this requirement until that time as the person currently in responsible charge is replaced.

Assembly Bill No. 2560

CHAPTER 302

An act to amend Section 5096.21 of the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 12, 2016. Filed with
Secretary of State September 12, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2560, Obernolte. Accountants: practice privileges: out-of-state individuals.

Existing law provides for the licensure and regulation of the practice of accountancy by the California Board of Accountancy within the Department of Consumer Affairs. Existing law authorizes the board to make a determination based on specified factors about whether allowing individuals from a particular state to practice pursuant to a practice privilege violates the board's duty to protect the public and requires the board, if it were to make such a determination, to require those individuals, except as specified, to file the notification form and pay specified fees as a condition to exercising a practice privilege in this state.

This bill would authorize the board to adopt emergency regulations in order to implement the above-described provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 5096.21 of the Business and Professions Code is amended to read:

5096.21. (a) (1) On and after January 1, 2016, if the board determines, through a majority vote of the board at a regularly scheduled meeting, that allowing individuals from a particular state to practice in this state pursuant to a practice privilege as described in Section 5096, violates the board's duty to protect the public, pursuant to Section 5000.1, the board shall require, by regulation, out-of-state individuals licensed from that state, as a condition to exercising a practice privilege in this state, to file the notification form and pay the applicable fees as required by former Section 5096, as added by Chapter 921 of the Statutes of 2004, and regulations adopted thereunder.

(2) The board may adopt emergency regulations, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), to implement this subdivision. The adoption of the regulations shall be deemed an emergency and necessary for the immediate preservation of the public

peace, health, safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code.

(b) The board shall, at minimum, consider the following factors in making the determination required by subdivision (a):

(1) Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.

(2) Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet Web site to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.

(3) Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

(c) Notwithstanding subdivision (a), if (1) the National Association of State Boards of Accountancy (NASBA) adopts enforcement best practices guidelines, (2) the board, upon a majority vote at a regularly scheduled board meeting, issues a finding after a public hearing that those practices meet or exceed the board's own enforcement practices, (3) a state has in place and is operating pursuant to enforcement practices substantially equivalent to the best practices guidelines, and (4) disciplinary history of a state's licensees is publicly available through the Internet in a manner that allows the board to link consumers to an Internet Web site to obtain information at least equal to the information that was previously available to consumers through the practice privilege form filed by out-of-state licensees pursuant to former Section 5096, as added by Chapter 921 of the Statutes of 2004, no practice privilege form shall be required to be filed by any licensee of that state as required by subdivision (a), nor shall the board be required to report on that state to the Legislature as required by subdivision (d).

(d) (1) The board shall report to the relevant policy committees of the Legislature, the director, and the public, upon request, preliminary determinations made pursuant to this section no later than July 1, 2015. The board shall, prior to January 1, 2016, and thereafter as it deems appropriate, review its determinations made pursuant to subdivision (b) to ensure that it is in compliance with this section.

(2) This subdivision shall become inoperative on July 1, 2017, pursuant to Section 10231.5 of the Government Code.

(e) On or before July 1, 2014, the board shall convene a stakeholder group consisting of members of the board, board enforcement staff, and representatives of the accounting profession and consumer representatives to consider whether the provisions of this article are consistent with the board's duty to protect the public consistent with Section 5000.1, and whether the provisions of this article satisfy the objectives of stakeholders of the accounting profession in this state, including consumers. The group, at its first meeting, shall adopt policies and procedures relative to how it

will conduct its business, including, but not limited to, policies and procedures addressing periodic reporting of its findings to the board.

(f) On or before January 1, 2018, the board shall prepare a report to be provided to the relevant policy committees of the Legislature, the director, and the public, upon request, that, at minimum, explains in detail all of the following:

(1) How the board has implemented this article and whether implementation is complete.

(2) Whether this article is, in the opinion of the board, more, less, or equivalent in the protection it affords the public than its predecessor article.

(3) Describes how other state boards of accountancy have addressed referrals to those boards from the board, the timeframe in which those referrals were addressed, and the outcome of investigations conducted by those boards.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

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DUPLICATION PURPOSES.**

Senate Bill No. 547

CHAPTER 429

An act to amend Sections 27, 156, 2499.5, 2570.16, 2715, 2760.1, 2987, 4008, 4840.5, 4887, 5063.3, 5096.9, 5810, 7332, 7583.23, 7583.24, 7583.47, 7635, 11302, 11320.5, 11321, 11323, 11324, 11345, 11345.2, 11345.6, 11422, 12241, 12304, 12305, 12310, and 12500 of, to amend, repeal, and add Sections 6980.79, 7506.10, 7511, 7574.11, 7574.13, 7582.11, 7582.17, 7583.12, 7583.17, 7583.20, 7585.16, 7588, 7596.5, 7598.14, 7598.17, and 7599.70 of, to add Sections 1006, 6980.9, 7501.9, 7574.09, 7574.35, 7581.6, 7591.14, 9882.6, 11345.5, and 11345.8 to, to repeal Section 303 of, and to repeal and add Section 11345.3 of, the Business and Professions Code, and to amend an initiative act entitled “An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent therewith” approved by electors November 7, 1922, by amending Section 12 thereof, relating to professions and vocations, and making an appropriation therefor.

[Approved by Governor October 2, 2017. Filed with
Secretary of State October 2, 2017.]

LEGISLATIVE COUNSEL’S DIGEST

SB 547, Hill. Professions and vocations: weights and measures.

(1) Existing law establishes the Department of Consumer Affairs within the Business, Consumer Services, and Housing Agency and provides that the department is under the control of the Director of Consumer Affairs.

(A) Existing law establishes within the department a Division of Consumer Services under the supervision and control of a chief who is appointed by the Governor.

This bill would repeal the provision establishing the Division of Consumer Services.

(B) Existing law authorizes the Department of Consumer Affairs to enter into a contract with a vendor for the licensing and enforcement of the BreEZe system, which is a specified integrated, enterprisewide enforcement case management and licensing system, no sooner than 30 days after written notification to certain committees of the Legislature.

This bill would require the director to report progress on release 3 entities’ transition to the new licensing technology platform to the appropriate committees of the Legislature, as specified.

(C) Existing law establishes a motor vehicle inspection and maintenance program, commonly known as smog check, that is administered by the Department of Consumer Affairs. Existing law, the Automotive Repair Act

taken, the offense for which the petitioner was disciplined, the petitioner's activities since the license or registration was in good standing, and the petitioner's rehabilitation efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the board finds necessary.

(c) The board reinstating the license or registration or modifying a penalty may impose terms and conditions as it determines necessary. To reinstate a revoked license or registration or to otherwise reduce a penalty or modify probation shall require a vote of five of the members of the board.

(d) The petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. The board may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

SEC. 13. Section 5063.3 of the Business and Professions Code is amended to read:

5063.3. (a) No confidential information obtained by a licensee, in his or her professional capacity, concerning a client or a prospective client shall be disclosed by the licensee without the written permission of the client or prospective client, except the following:

(1) Disclosures made by a licensee in compliance with a subpoena or a summons enforceable by order of a court.

(2) Disclosures made by a licensee regarding a client or prospective client to the extent the licensee reasonably believes it is necessary to maintain or defend himself or herself in a legal proceeding initiated by the client or prospective client.

(3) Disclosures made by a licensee in response to an official inquiry from a federal or state government regulatory agency.

(4) Disclosures made by a licensee or a licensee's duly authorized representative to another licensee or person in connection with a proposed sale or merger of the licensee's professional practice, provided the parties enter into a written nondisclosure agreement with regard to all client information shared between the parties.

(5) Disclosures made by a licensee to either of the following:

(A) Another licensee to the extent necessary for purposes of professional consultation.

(B) Organizations that provide professional standards review and ethics or quality control peer review.

(6) Disclosures made when specifically required by law.

(7) Disclosures specified by the board in regulation.

(b) In the event that confidential client information may be disclosed to persons or entities outside the United States of America in connection with the services provided, the licensee shall inform the client in writing and obtain the client's written permission for the disclosure.

SEC. 14. Section 5096.9 of the Business and Professions Code is amended to read:

5096.9. (a) The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this article.

(b) The board shall adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to establish policies, guidelines, and procedures to initially implement this article as it goes into effect on July 1, 2013. The adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State in accordance with the Administrative Procedure Act.

(c) (1) Notwithstanding any other law, to ensure uninterrupted implementation of this article, the board may adopt or amend regulations consistent with Section 100 of Title 1 of the California Code of Regulations to remove or extend the inoperative date of its regulations in Article 3 (commencing with Section 18) of Division 1 of Title 16 of the California Code of Regulations, or to remove the inoperative dates for the regulations in Article 4 (commencing with Section 26) of Division 1 of Title 16 of the California Code of Regulations.

(2) Notwithstanding any other law, the Office of Administrative Law shall consider the board's action to remove or extend the inoperative dates of these regulations as a change without regulatory effect as described in Section 100 of Title 1 of the California Code of Regulations that exempts the board from complying with the rulemaking procedure specified in the Administrative Procedure Act (Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 15. Section 5810 of the Business and Professions Code is amended to read:

5810. (a) This chapter shall be subject to review by the appropriate policy committees of the Legislature.

(b) This chapter shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 16. Section 6980.79 of the Business and Professions Code is amended to read:

6980.79. The fees prescribed by this chapter are those fixed in the following schedule:

(a) A locksmith license application fee may not exceed thirty dollars (\$30).

(b) An original license and renewal fee for a locksmith license may not exceed forty-five dollars (\$45).

(c) A branch office registration fee and branch office renewal fee may not exceed thirty-five dollars (\$35).

(d) Notwithstanding Section 163.5, the reinstatement fee as required by Section 6980.28 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

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DUPLICATION PURPOSES.**

Introduced by Senator GalgianiFebruary 17, 2017

An act to amend Sections 5096.20 and 5096.21 of, to amend and repeal Sections 5072, 5096, 5096.1, 5096.2, 5096.4, 5096.5, 5096.6, 5096.7, 5096.12 of, and to repeal Sections 5096.3, 5096.8, 5096.9, 5096.10, 5096.13, 5096.14, and 5096.15 of, the Business and Professions Code, relating to accountancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 795, as introduced, Galgiani. Accountancy: practice privileges.

Existing law provides for the licensure and regulation of the practice of accountancy by the California Board of Accountancy within the Department of Consumer Affairs.

(1) Existing law, until January 1, 2019, authorizes an individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state to engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license, if certain conditions are met, including a requirement that the individual has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least 4 of the last 10 years. Related provisions of existing law, until January 1, 2019, specifically address the denial, revocation, or administrative suspension of practice privileges and the authority of an individual with a practice privilege to sign attest reports. Existing law, until January 1, 2019, requires the board to add specified content on out-of-state licensees to its Internet Web site. Existing law suspends, until January 1, 2019, certain provisions relating to the enforcement of practice privileges and notification of intent to practice under such a privilege.

Existing law also suspends until January 1, 2019, a condition that makes the operation of practice privilege provisions contingent on a specified appropriation in the annual Budget Act to fund them.

This bill would require that the term of continual practice under a valid license be for at least 5 years. The bill would remove those January 1, 2019, repeal dates, thereby making the affected provisions operative indefinitely. The bill would repeal the suspended enforcement and contingent operation provisions. The bill would make certain other conforming changes.

(2) Existing law prohibits a person from engaging in the practice of accountancy as a partnership unless the partnership is registered with the board and meets specified requirements. Existing law, until January 1, 2019, authorizes a partnership registered to provide certain services through an individual who qualifies for the practice privilege to meet those requirements.

This bill would remove the January 1, 2019, repeal date, thereby making that partnership provision operative indefinitely.

(3) Existing law, until January 1, 2019, authorizes the board to make a determination based on specified factors about whether allowing individuals from a particular state to practice pursuant to a practice privilege violates the board’s duty to protect the public and requires the board, if it makes such a determination, to impose certain additional requirements on individuals. Existing law, until January 1, 2019, requires the board, by January 1, 2018, to prepare a report to be provided to the relevant policy committees of the Legislature and the director detailing, among other things, how the board has implemented these practice privilege provisions.

This bill would remove those January 1, 2019, repeal dates, thereby making the affected provisions operative indefinitely.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5072 of the Business and Professions
 2 Code, as added by Section 4.5 of Chapter 661 of the Statutes of
 3 2012, is amended to read:
 4 5072. (a) No persons shall engage in the practice of
 5 accountancy as a partnership unless the partnership is registered
 6 by the board.

1 (b) A partnership, other than a limited partnership, may be
2 registered by the board to engage in the practice of public
3 accountancy provided it meets the following requirements:

4 (1) At least one general partner shall hold a valid permit to
5 practice as a certified public accountant, public accountant, or
6 accountancy corporation, or shall be an applicant for a certificate
7 as a certified public accountant under Sections 5087 and 5088, or
8 the partnership shall be registered pursuant to subdivision (c) of
9 Section 5096.12.

10 (2) Each partner engaged within this state in the practice of
11 public accountancy as defined by Section 5051 shall hold a valid
12 permit to practice in this state or shall have applied for a certificate
13 as a certified public accountant under Sections 5087 and 5088,
14 except for a partner with practice privileges pursuant to Section
15 5096.

16 (3) Each partner not engaged in the practice of public
17 accountancy within this state shall be a certified public accountant
18 in good standing of some state, except as permitted by Section
19 5079.

20 (4) Each resident manager in charge of an office of the firm in
21 this state shall be a licensee in good standing of this state, or shall
22 have applied for a certificate as a certified public accountant under
23 Sections 5087 and 5088.

24 (c) This section shall become operative on July 1, 2013.

25 ~~(d) This section shall remain in effect only until January 1, 2019,~~
26 ~~and as of that date is repealed, unless a later enacted statute, that~~
27 ~~is enacted before January 1, 2019, deletes or extends that date.~~

28 SEC. 2. Section 5072 of the Business and Professions Code,
29 as added by Section 4.7 of Chapter 661 of the Statutes of 2012, is
30 repealed.

31 ~~5072. (a) No persons shall engage in the practice of~~
32 ~~accountancy as a partnership unless the partnership is registered~~
33 ~~by the board.~~

34 ~~(b) A partnership, other than a limited partnership, may be~~
35 ~~registered by the board to engage in the practice of public~~
36 ~~accountancy provided it meets the following requirements:~~

37 ~~(1) At least one general partner shall hold a valid permit to~~
38 ~~practice as a certified public accountant, public accountant, or~~
39 ~~accountancy corporation, or shall be an applicant for a certificate~~
40 ~~as a certified public accountant under Sections 5087 and 5088.~~

1 ~~(2) Each partner engaged within this state in the practice of~~
2 ~~public accountancy as defined by Section 5051 shall hold a valid~~
3 ~~permit to practice in this state or shall have applied for a certificate~~
4 ~~as a certified public accountant under Sections 5087 and 5088.~~

5 ~~(3) Each partner not engaged in the practice of public~~
6 ~~accountancy within this state shall be a certified public accountant~~
7 ~~in good standing of some state, except as permitted by Section~~
8 ~~5079.~~

9 ~~(4) Each resident manager in charge of an office of the firm in~~
10 ~~this state shall be a licensee in good standing of this state, or shall~~
11 ~~have applied for a certificate as a certified public accountant under~~
12 ~~Sections 5087 and 5088.~~

13 ~~(e) This section shall become operative on January 1, 2019.~~

14 SEC. 3. Section 5096 of the Business and Professions Code,
15 as amended by Section 6 of Chapter 400 of the Statutes of 2014,
16 is amended to read:

17 5096. (a) An individual whose principal place of business is
18 not in this state and who has a valid and current license, certificate,
19 or permit to practice public accountancy from another state may,
20 subject to the conditions and limitations in this article, engage in
21 the practice of public accountancy in this state under a practice
22 privilege without obtaining a certificate or license under this
23 chapter if the individual satisfies one of the following:

24 (1) The individual has continually practiced public accountancy
25 as a certified public accountant under a valid license issued by any
26 state for at least 4 5 of the last 10 years.

27 (2) The individual has a license, certificate, or permit from a
28 state that has been determined by the board to have education,
29 examination, and experience qualifications for licensure
30 substantially equivalent to this state’s qualifications under Section
31 5093.

32 (3) The individual possesses education, examination, and
33 experience qualifications for licensure that have been determined
34 by the board to be substantially equivalent to this state’s
35 qualifications under Section 5093.

36 (b) The board may designate states as substantially equivalent
37 under paragraph (2) of subdivision (a) and may accept individual
38 qualification evaluations or appraisals conducted by designated
39 entities, as satisfying the requirements of paragraph (3) of
40 subdivision (a).

1 (c) An individual who qualifies for the practice privilege under
2 this section may engage in the practice of public accountancy in
3 this state, and a notice, fee, or other requirement shall not be
4 imposed on that individual by the board.

5 (d) An individual who qualifies for the practice privilege under
6 this section may perform the following services only through a
7 firm of certified public accountants that has obtained a registration
8 from the board pursuant to Section 5096.12:

9 (1) An audit or review of a financial statement for an entity
10 headquartered in California.

11 (2) A compilation of a financial statement when that person
12 expects, or reasonably might expect, that a third party will use the
13 financial statement and the compilation report does not disclose a
14 lack of independence for an entity headquartered in California.

15 (3) An examination of prospective financial information for an
16 entity headquartered in California.

17 (e) An individual who holds a practice privilege under this
18 article, and is exercising the practice privilege in California:

19 (1) Is subject to the personal and subject matter jurisdiction and
20 disciplinary authority of the board and the courts of this state.

21 (2) Shall comply with the provisions of this chapter, board
22 regulations, and other laws, regulations, and professional standards
23 applicable to the practice of public accountancy by the licensees
24 of this state and to any other laws and regulations applicable to
25 individuals practicing under practice privileges in this state, except
26 the individual is deemed, solely for the purpose of this article, to
27 have met the continuing education requirements and ethics
28 examination requirements of this state when the individual has
29 met the examination and continuing education requirements of the
30 state in which the individual holds the valid license, certificate, or
31 permit on which the substantial equivalency is based.

32 (3) Shall not provide public accountancy services in this state
33 from any office located in this state, except as an employee of a
34 firm registered in this state. This paragraph does not apply to public
35 accountancy services provided to a client at the client's place of
36 business or residence.

37 (4) Is deemed to have appointed the regulatory agency of the
38 state that issued the individual's certificate, license, or permit upon
39 which substantial equivalency is based as the individual's agent

1 on whom notices, subpoenas, or other process may be served in
2 any action or proceeding by the board against the individual.

3 (5) Shall cooperate with any board investigation or inquiry and
4 shall timely respond to a board investigation, inquiry, request,
5 notice, demand, or subpoena for information or documents and
6 timely provide to the board the identified information and
7 documents.

8 (6) Shall cease exercising the practice privilege in this state if
9 the regulatory agency in the state in which the individual's
10 certificate, license, or permit was issued takes disciplinary action
11 resulting in the suspension or revocation, including stayed
12 suspension, stayed revocation, or probation of the individual's
13 certificate, license, or permit, or takes other disciplinary action
14 against the individual's certificate, license, or permit that arises
15 from any of the following:

16 (A) Gross negligence, recklessness, or intentional wrongdoing
17 relating to the practice of public accountancy.

18 (B) Fraud or misappropriation of funds.

19 (C) Preparation, publication, or dissemination of false,
20 fraudulent, or materially incomplete or misleading financial
21 statements, reports, or information.

22 (7) Shall cease exercising the practice privilege in this state if
23 convicted in any jurisdiction of any crime involving dishonesty,
24 including, but not limited to, embezzlement, theft, misappropriation
25 of funds or property, or obtaining money, property, or other
26 valuable consideration by fraudulent means or false pretenses.

27 (8) Shall cease exercising the practice privilege if the United
28 States Securities and Exchange Commission or the Public Company
29 Accounting Oversight Board bars the individual from practicing
30 before them.

31 (9) Shall cease exercising the practice privilege if any
32 governmental body or agency suspends the right of the individual
33 to practice before the body or agency.

34 (10) Shall report to the board in writing any pending criminal
35 charges, other than for a minor traffic violation, in any jurisdiction
36 within 30 days of the date the individual has knowledge of those
37 charges.

38 (f) An individual who is required to cease practice pursuant to
39 paragraphs (6) to (9), inclusive, of subdivision (e) shall notify the
40 board within 15 calendar days, on a form prescribed by the board,

1 and shall not practice public accountancy in this state pursuant to
2 this section until he or she has received from the board written
3 permission to do so.

4 (g) An individual who fails to cease practice as required by
5 subdivision (e) or who fails to provide the notice required by
6 subdivision (f) shall be subject to the personal and subject matter
7 jurisdiction and disciplinary authority of the board as if the practice
8 privilege were a license and the individual were a licensee. An
9 individual in violation of subdivision (e) or (f) shall, for a minimum
10 of one year from the date the board learns there has been a violation
11 of subdivision (e) or (f), not practice in this state and shall not have
12 the possibility of reinstatement during that period. If the board
13 determines that the failure to cease practice or provide the notice
14 was intentional, that individual's practice privilege shall be revoked
15 and there shall be no possibility of reinstatement for a minimum
16 of two years.

17 (h) The board shall require an individual who provides notice
18 to the board pursuant to subdivision (f) to cease the practice of
19 public accountancy in this state until the board provides the
20 individual with written permission to resume the practice of public
21 accountancy in this state.

22 (i) (1) An individual to whom, within the last seven years
23 immediately preceding the date on which he or she wishes to
24 practice in this state, any of the following criteria apply, shall notify
25 the board, on a form prescribed by the board, and shall not practice
26 public accountancy in this state pursuant to this section until the
27 board provides the individual with written permission to do so:

28 (A) He or she has been the subject of any final disciplinary
29 action by the licensing or disciplinary authority of any other
30 jurisdiction with respect to any professional license or has any
31 charges of professional misconduct pending against him or her in
32 any other jurisdiction.

33 (B) He or she has had his or her license in another jurisdiction
34 reinstated after a suspension or revocation of the license.

35 (C) He or she has been denied issuance or renewal of a
36 professional license or certificate in any other jurisdiction for any
37 reason other than an inadvertent administrative error.

38 (D) He or she has been convicted of a crime or is subject to
39 pending criminal charges in any jurisdiction other than a minor
40 traffic violation.

1 (E) He or she has otherwise acquired a disqualifying condition
2 as described in subdivision (a) of Section 5096.2.

3 (2) An individual who fails to cease practice as required by
4 subdivision (e) or who fails to provide the notice required by
5 paragraph (1) shall be subject to the personal and subject matter
6 jurisdiction and disciplinary authority of the board as if the practice
7 privilege were a license and the individual were a licensee. An
8 individual in violation of subdivision (e) or paragraph (1) shall,
9 for a minimum of one year from the date the board knows there
10 has been a violation of subdivision (e) or paragraph (1), not practice
11 in this state and shall not have the possibility of reinstatement
12 during that period. If the board determines that the failure to cease
13 practice or provide the notice was intentional, that individual shall
14 be prohibited from practicing in this state in the same manner as
15 if a licensee has his or her practice privilege revoked and there
16 shall be no possibility of reinstatement for a minimum of two years.

17 ~~(j) This section shall remain in effect only until January 1, 2019,~~
18 ~~and as of that date is repealed, unless a later enacted statute, that~~
19 ~~is enacted before January 1, 2019, deletes or extends that date.~~

20 SEC. 4. Section 5096 of the Business and Professions Code,
21 as added by Section 10 of Chapter 411 of the Statutes of 2012, is
22 repealed.

23 ~~5096. (a) An individual whose principal place of business is~~
24 ~~not in this state and who has a valid and current license, certificate,~~
25 ~~or permit to practice public accountancy from another state may,~~
26 ~~subject to the conditions and limitations in this article, engage in~~
27 ~~the practice of public accountancy in this state under a practice~~
28 ~~privilege without obtaining a certificate or license under this~~
29 ~~chapter if the individual satisfies one of the following:~~

30 ~~(1) The individual has continually practiced public accountancy~~
31 ~~as a certified public accountant under a valid license issued by any~~
32 ~~state for at least four of the last 10 years.~~

33 ~~(2) The individual has a license, certificate, or permit from a~~
34 ~~state which has been determined by the board to have education,~~
35 ~~examination, and experience qualifications for licensure~~
36 ~~substantially equivalent to this state's qualifications under Section~~
37 ~~5093.~~

38 ~~(3) The individual possesses education, examination, and~~
39 ~~experience qualifications for licensure which have been determined~~

1 by the board to be substantially equivalent to this state's
2 qualifications under Section 5093.

3 (b) The board may designate states as substantially equivalent
4 under paragraph (2) of subdivision (a) and may accept individual
5 qualification evaluations or appraisals conducted by designated
6 entities, as satisfying the requirements of paragraph (3) of
7 subdivision (a).

8 (c) To obtain a practice privilege under this section, an
9 individual who meets the requirements of subdivision (a), shall do
10 the following:

11 (1) In the manner prescribed by board regulation, notify the
12 board of the individual's intent to practice.

13 (2) Pay a fee as provided in Article 8 (commencing with Section
14 5130).

15 (d) Except as otherwise provided by this article or by board
16 regulation, the practice privilege commences when the individual
17 notifies the board, provided the fee is received by the board within
18 30 days of that date. The board shall permit the notification to be
19 provided electronically.

20 (e) An individual who holds a practice privilege under this
21 article:

22 (1) Is subject to the personal and subject matter jurisdiction and
23 disciplinary authority of the board and the courts of this state.

24 (2) Shall comply with the provisions of this chapter, board
25 regulations, and other laws, regulations, and professional standards
26 applicable to the practice of public accountancy by the licensees
27 of this state and to any other laws and regulations applicable to
28 individuals practicing under practice privileges in this state except
29 the individual is deemed, solely for the purpose of this article, to
30 have met the continuing education requirements and ethics
31 examination requirements of this state when such individual has
32 met the examination and continuing education requirements of the
33 state in which the individual holds the valid license, certificate, or
34 permit on which the substantial equivalency is based.

35 (3) Shall not provide public accountancy services in this state
36 from any office located in this state, except as an employee of a
37 firm registered in this state. This paragraph does not apply to public
38 accountancy services provided to a client at the client's place of
39 business or residence.

1 ~~(4) Is deemed to have appointed the regulatory agency of the~~
 2 ~~state that issued the individual's certificate, license, or permit upon~~
 3 ~~which substantial equivalency is based as the individual's agent~~
 4 ~~on whom notices, subpoenas, or other process may be served in~~
 5 ~~any action or proceeding by the board against the individual.~~

6 ~~(5) Shall cooperate with any board investigation or inquiry and~~
 7 ~~shall timely respond to a board investigation, inquiry, request,~~
 8 ~~notice, demand, or subpoena for information or documents and~~
 9 ~~timely provide to the board the identified information and~~
 10 ~~documents.~~

11 ~~(f) A practice privilege expires one year from the date of the~~
 12 ~~notice, unless a shorter period is set by board regulation.~~

13 ~~(g) (1) No individual may practice under a practice privilege~~
 14 ~~without prior approval of the board if the individual has, or acquires~~
 15 ~~at any time during the term of the practice privilege, any~~
 16 ~~disqualifying condition under paragraph (2) of this subdivision.~~

17 ~~(2) Disqualifying conditions include:~~

18 ~~(A) Conviction of any crime other than a minor traffic violation.~~

19 ~~(B) Revocation, suspension, denial, surrender, or other discipline~~
 20 ~~or sanctions involving any license, permit, registration, certificate,~~
 21 ~~or other authority to practice any profession in this or any other~~
 22 ~~state or foreign country or to practice before any state, federal, or~~
 23 ~~local court or agency, or the Public Company Accounting Oversight~~
 24 ~~Board.~~

25 ~~(C) Pendency of any investigation, inquiry, or proceeding by~~
 26 ~~or before any state, federal or local court or agency, including, but~~
 27 ~~not limited to, the Public Company Accounting Oversight Board,~~
 28 ~~involving the professional conduct of the individual.~~

29 ~~(D) Any judgment or arbitration award against the individual~~
 30 ~~involving the professional conduct of the individual in the amount~~
 31 ~~of thirty thousand dollars (\$30,000) or greater.~~

32 ~~(E) Any other conditions as specified by the board in regulation.~~

33 ~~(3) The board may adopt regulations exempting specified minor~~
 34 ~~occurrences of the conditions listed in subparagraph (B) of~~
 35 ~~paragraph (2) from being disqualifying conditions under this~~
 36 ~~subdivision.~~

37 ~~(h) This section shall become operative on January 1, 2019.~~

38 SEC. 5. Section 5096.1 of the Business and Professions Code,
 39 as added by Section 12 of Chapter 411 of the Statutes of 2012, is
 40 amended to read:

1 5096.1. (a) Any individual, not a licensee of this state, who is
2 engaged in any act which is the practice of public accountancy in
3 this state, and who does not qualify to practice pursuant to the
4 practice privilege described in Section 5096 and who has a license,
5 certificate, or other authority to engage in the practice of public
6 accountancy in any other state, regardless of whether active,
7 inactive, suspended, or subject to renewal on payment of a fee or
8 completion of an educational or ethics requirement, is:

9 (1) Deemed to be practicing public accountancy unlawfully in
10 this state.

11 (2) Subject to the personal and subject matter jurisdiction and
12 disciplinary authority of the board and the courts of this state to
13 the same extent as a holder of a valid practice privilege.

14 (3) Deemed to have appointed the regulatory agency of the state
15 that issued the individual's certificate or license as the individual's
16 agent on whom notice, subpoenas, or other process may be served
17 in any action or proceeding by the board against the individual.

18 (b) The board may revoke a practice privilege from any
19 individual who has violated this section or implementing
20 regulations or committed any act which would be grounds for
21 discipline against the holder of a practice privilege.

22 (c) This section shall become operative on July 1, 2013.

23 ~~(d) This section shall remain in effect only until January 1, 2019,~~
24 ~~and as of that date is repealed, unless a later enacted statute, that~~
25 ~~is enacted before January 1, 2019, deletes or extends that date.~~

26 SEC. 6. Section 5096.1 of the Business and Professions Code,
27 as added by Section 13 of Chapter 411 of the Statutes of 2012, is
28 repealed.

29 ~~5096.1. (a) Any individual, not a licensee of this state, who is~~
30 ~~engaged in any act which is the practice of public accountancy in~~
31 ~~this state, and who has not given notice of intent to practice under~~
32 ~~practice privileges and paid the fee required pursuant to the~~
33 ~~provisions of this article, and who has a license, certificate, or~~
34 ~~other authority to engage in the practice of public accountancy in~~
35 ~~any other state, regardless of whether active, inactive, suspended,~~
36 ~~or subject to renewal on payment of a fee or completion of an~~
37 ~~educational or ethics requirement, is:~~

38 ~~(1) Deemed to be practicing public accountancy unlawfully in~~
39 ~~this state.~~

1 ~~(2) Subject to the personal and subject matter jurisdiction and~~
 2 ~~disciplinary authority of the board and the courts of this state to~~
 3 ~~the same extent as a holder of a valid practice privilege.~~

4 ~~(3) Deemed to have appointed the regulatory agency of the state~~
 5 ~~that issued the individual's certificate or license as the individual's~~
 6 ~~agent on whom notice, subpoenas, or other process may be served~~
 7 ~~in any action or proceeding by the board against the individual.~~

8 ~~(b) The board may prospectively deny a practice privilege to~~
 9 ~~any individual who has violated this section or implementing~~
 10 ~~regulations or committed any act which would be grounds for~~
 11 ~~discipline against the holder of a practice privilege.~~

12 ~~(e) This section shall become operative on January 1, 2019.~~

13 SEC. 7. Section 5096.2 of the Business and Professions Code,
 14 as amended by Section 4 of Chapter 319 of the Statutes of 2013,
 15 is amended to read:

16 5096.2. (a) (1) Practice privileges may be revoked for any of
 17 the following reasons:

18 (A) If an individual no longer qualifies under, or complies with,
 19 the provisions of this article, including, but not limited to, Section
 20 5096, or implementing regulations.

21 (B) If an individual commits any act that if committed by an
 22 applicant for licensure would be grounds for denial of a license
 23 under Section 480.

24 (C) If an individual commits any act that if committed by a
 25 licensee would be grounds for discipline under Section 5100.

26 (D) If an individual commits any act outside of this state that
 27 would be a violation if committed within this state.

28 (E) If an individual acquires at any time, while exercising the
 29 practice privilege, any disqualifying condition under paragraph
 30 (2).

31 (2) Disqualifying conditions include:

32 (A) Conviction of any crime other than a minor traffic violation.

33 (B) Revocation, suspension, denial, surrender, or other discipline
 34 or sanctions involving any license, permit, registration, certificate,
 35 or other authority to practice any profession in this or any other
 36 state or foreign country or to practice before any state, federal, or
 37 local court or agency, or the Public Company Accounting Oversight
 38 Board.

1 (C) Any judgment or arbitration award against the individual
2 involving the professional conduct of the individual in the amount
3 of thirty thousand dollars (\$30,000) or greater.

4 (D) Any other conditions as specified by the board in regulation.

5 (3) The board may adopt regulations exempting specified minor
6 occurrences of the conditions listed in subparagraph (B) of
7 paragraph (2) from being disqualifying conditions under this
8 subdivision.

9 (b) The board may revoke practice privileges using either of
10 the following procedures:

11 (1) Notifying the individual in writing of all of the following:

12 (A) That the practice privilege is revoked.

13 (B) The reasons for revocation.

14 (C) The earliest date on which the individual may qualify for a
15 practice privilege.

16 (D) That the individual has a right to appeal the notice and
17 request a hearing under the provisions of the Administrative
18 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
19 Part 1 of Division 3 of Title 2 of the Government Code) if a written
20 notice of appeal and request for hearing is made within 60 days.

21 (E) That, if the individual does not submit a notice of appeal
22 and request for hearing within 60 days, the board's action set forth
23 in the notice shall become final.

24 (2) Filing a statement of issues under the Administrative
25 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
26 Part 1 of Division 3 of Title 2 of the Government Code).

27 (c) An individual whose practice privilege has been revoked
28 may only subsequently exercise the practice privilege upon
29 application to the board for reinstatement of the practice privilege
30 not less than one year after the effective date of the notice or
31 decision revoking the practice privilege, unless a longer time period
32 is specified in the notice or decision revoking the practice privilege.

33 (d) Holders of practice privileges are subject to suspension,
34 citations, fines, or other disciplinary actions for any conduct that
35 would be grounds for discipline against a licensee of the board or
36 for any conduct in violation of this article or regulations adopted
37 thereunder.

38 (e) The board may recover its costs pursuant to Section 5107
39 as part of any disciplinary proceeding against the holder of a
40 practice privilege.

1 (f) The provisions of the Administrative Procedure Act (Chapter
2 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
3 Title 2 of the Government Code), including, but not limited to, the
4 commencement of a disciplinary proceeding by the filing of an
5 accusation by the board, shall apply under this article.

6 (g) If the board revokes or otherwise limits an individual's
7 practice privilege, the board shall promptly notify the regulatory
8 agency of the state or states in which the individual is licensed,
9 and the United States Securities and Exchange Commission, the
10 Public Company Accounting Oversight Board, and the National
11 Association of State Boards of Accountancy.

12 ~~(h) This section shall remain in effect only until January 1, 2019,~~
13 ~~and as of that date is repealed, unless a later enacted statute, that~~
14 ~~is enacted before January 1, 2019, deletes or extends that date.~~

15 SEC. 8. Section 5096.2 of the Business and Professions Code,
16 as added by Section 16 of Chapter 411 of the Statutes of 2012, is
17 repealed.

18 ~~5096.2.—(a) Practice privileges may be denied for failure to~~
19 ~~qualify under or comply with the provisions of this article or~~
20 ~~implementing regulations, or for any act that if committed by an~~
21 ~~applicant for licensure would be grounds for denial of a license~~
22 ~~under Section 480 or if committed by a licensee would be grounds~~
23 ~~for discipline under Section 5100, or for any act committed outside~~
24 ~~of this state that would be a violation if committed within this state.~~

25 ~~(b) The board may deny practice privileges using either of the~~
26 ~~following procedures:~~

27 ~~(1) Notifying the individual in writing of all of the following:~~

28 ~~(A) That the practice privilege is denied.~~

29 ~~(B) The reasons for denial.~~

30 ~~(C) The earliest date on which the individual is eligible for a~~
31 ~~practice privilege.~~

32 ~~(D) That the individual has a right to appeal the notice and~~
33 ~~request a hearing under the provisions of the Administrative~~
34 ~~Procedure Act (Chapter 3.5 (commencing with Section 11340) of~~
35 ~~Part 1 of Division 3 of Title 2 of the Government Code) if a written~~
36 ~~notice of appeal and request for hearing is made within 60 days.~~

37 ~~(E) That, if the individual does not submit a notice of appeal~~
38 ~~and request for hearing within 60 days, the board's action set forth~~
39 ~~in the notice shall become final.~~

1 ~~(2) Filing a statement of issues under the Administrative~~
2 ~~Procedure Act (Chapter 3.5 (commencing with Section 11340) of~~
3 ~~Part 1 of Division 3 of Title 2 of the Government Code).~~

4 ~~(e) An individual who had been denied a practice privilege may~~
5 ~~apply for a new practice privilege not less than one year after the~~
6 ~~effective date of the notice or decision denying the practice~~
7 ~~privilege unless a longer time period, not to exceed three years, is~~
8 ~~specified in the notice or decision denying the practice privilege.~~

9 ~~(d) This section shall become operative on January 1, 2019.~~

10 SEC. 9. Section 5096.3 of the Business and Professions Code
11 is repealed.

12 ~~5096.3. (a) Practice privileges are subject to revocation,~~
13 ~~suspension, fines, or other disciplinary sanctions for any conduct~~
14 ~~that would be grounds for discipline against a licensee of the board~~
15 ~~or for any conduct in violation of this article or regulations~~
16 ~~implementing this article.~~

17 ~~(b) Practice privileges are subject to discipline during any time~~
18 ~~period in which they are valid, under administrative suspension,~~
19 ~~or expired.~~

20 ~~(c) The board may recover its costs pursuant to Section 5107~~
21 ~~as part of any disciplinary proceeding against the holder of a~~
22 ~~practice privilege.~~

23 ~~(d) An individual whose practice privilege has been revoked~~
24 ~~may apply for a new practice privilege not less than one year after~~
25 ~~the effective date of the board's decision revoking the individual's~~
26 ~~practice privilege unless a longer time period, not to exceed three~~
27 ~~years, is specified in the board's decision revoking the practice~~
28 ~~privilege.~~

29 ~~(e) The provisions of the Administrative Procedure Act (Chapter~~
30 ~~3.5 (commencing with Section 11340) of Part 1 of Division 3 of~~
31 ~~Title 2 of the Government Code), including, but not limited to, the~~
32 ~~commencement of a disciplinary proceeding by the filing of an~~
33 ~~accusation by the board shall apply under this article.~~

34 ~~(f) This section shall become operative on January 1, 2019.~~

35 SEC. 10. Section 5096.4 of the Business and Professions Code,
36 as amended by Section 7 of Chapter 400 of the Statutes of 2014,
37 is amended to read:

38 5096.4. (a) The right of an individual to practice in this state
39 under a practice privilege may be administratively suspended at
40 any time by an order issued by the board or its executive officer,

1 without prior notice or hearing, for the purpose of conducting a
2 disciplinary investigation, proceeding, or inquiry concerning the
3 individual's competence or qualifications to practice under practice
4 privileges, failure to timely respond to a board inquiry or request
5 for information or documents, or under other conditions and
6 circumstances provided for by board regulation. The board shall
7 consult the Public Company Accounting Oversight Board and the
8 United States Securities and Exchange Commission at least once
9 every six months to identify out-of-state licensees who may have
10 disqualifying conditions or who may be obliged to cease practice,
11 and shall disclose, pursuant to this subdivision, whether those
12 out-of-state licensees are lawfully permitted to exercise the
13 privilege. Disclosure of this information shall not be considered
14 discipline.

15 (b) The administrative suspension order is immediately effective
16 when mailed to the individual's address of record or agent for
17 notice and service as provided for in this article.

18 (c) The administrative suspension order shall contain the
19 following:

20 (1) The reason for the suspension.

21 (2) A statement that the individual has the right, within 30 days,
22 to appeal the administrative suspension order and request a hearing.

23 (3) A statement that any appeal hearing will be conducted under
24 the provisions of the Administrative Procedure Act (Chapter 3.5
25 (commencing with Section 11340) of Part 1 of Division 3 of Title
26 2 of the Government Code) applicable to individuals who are
27 denied licensure, including the filing of a statement of issues by
28 the board setting forth the reasons for the administrative suspension
29 of practice privileges and specifying the statutes and rules with
30 which the individual must show compliance by producing proof
31 at the hearing and in addition any particular matters that have come
32 to the attention of the board and that would authorize the
33 administrative suspension, or the revocation of practice privileges.

34 (d) The burden is on the holder of the suspended practice
35 privilege to establish both qualification and fitness to practice
36 under practice privileges.

37 (e) The administrative suspension shall continue in effect until
38 terminated by an order of the board or the executive officer.

1 (f) Administrative suspension is not discipline and shall not
2 preclude any individual from applying for a license to practice
3 public accountancy in this state.

4 (g) Proceedings to appeal an administrative suspension order
5 may be combined or coordinated with proceedings for revocation
6 or discipline of a practice privilege.

7 (h) This section shall become operative on July 1, 2013.

8 ~~(i) This section shall remain in effect only until January 1, 2019,
9 and as of that date is repealed, unless a later enacted statute, that
10 is enacted before January 1, 2019, deletes or extends that date.~~

11 SEC. 11. Section 5096.4 of the Business and Professions Code,
12 as amended by Section 8 of Chapter 400 of the Statutes of 2014,
13 is repealed.

14 ~~5096.4. (a) The right of an individual to practice in this state
15 under a practice privilege may be administratively suspended at
16 any time by an order issued by the board or its executive officer,
17 without prior notice or hearing, for the purpose of conducting a
18 disciplinary investigation, proceeding, or inquiry concerning the
19 representations made in the notice, the individual's competence
20 or qualifications to practice under practice privileges, failure to
21 timely respond to a board inquiry or request for information or
22 documents, or under other conditions and circumstances provided
23 for by board regulation.~~

24 ~~(b) The administrative suspension order is immediately effective
25 when mailed to the individual's address of record or agent for
26 notice and service as provided for in this article.~~

27 ~~(c) The administrative suspension order shall contain the
28 following:~~

29 ~~(1) The reason for the suspension.~~

30 ~~(2) A statement that the individual has the right, within 30 days,
31 to appeal the administrative suspension order and request a hearing.~~

32 ~~(3) A statement that any appeal hearing will be conducted under
33 the Administrative Procedure Act (Chapter 3.5 (commencing with
34 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
35 Code) applicable to individuals who are denied licensure, including
36 the filing of a statement of issues by the board setting forth the
37 reasons for the administrative suspension of practice privileges
38 and specifying the statutes and rules with which the individual
39 must show compliance by producing proof at the hearing and in
40 addition any particular matters that have come to the attention of~~

1 the board and that would authorize the administrative suspension,
2 or the denial of practice privileges.

3 ~~(d) The burden is on the holder of the suspended practice
4 privilege to establish both qualification and fitness to practice
5 under practice privileges.~~

6 ~~(e) The administrative suspension shall continue in effect until
7 terminated by an order of the board or the executive officer or
8 expiration of the practice privilege under administrative suspension.~~

9 ~~(f) Administrative suspension is not discipline and shall not
10 preclude any individual from applying for a license to practice
11 public accountancy in this state or from applying for a new practice
12 privilege upon expiration of the one under administrative
13 suspension, except that the new practice privilege shall not be
14 effective until approved by the board.~~

15 ~~(g) Notwithstanding any administrative suspension, a practice
16 privilege expires one year from the date of notice unless a shorter
17 period is set by board regulation.~~

18 ~~(h) Proceedings to appeal an administrative suspension order
19 may be combined or coordinated with proceedings for denial or
20 discipline of a practice privilege.~~

21 ~~(i) This section shall become operative on January 1, 2019.~~

22 SEC. 12. Section 5096.5 of the Business and Professions Code,
23 as added by Section 23 of Chapter 411 of the Statutes of 2012, is
24 amended to read:

25 5096.5. (a) Notwithstanding any other provision of this article,
26 an individual may not sign any attest report pursuant to a practice
27 privilege unless the individual meets the experience requirements
28 of Section 5095.

29 (b) This section shall become operative on July 1, 2013.

30 ~~(c) This section shall remain in effect only until January 1, 2019,
31 and as of that date is repealed, unless a later enacted statute, that
32 is enacted before January 1, 2019, deletes or extends that date.~~

33 SEC. 13. Section 5096.5 of the Business and Professions Code,
34 as added by Section 24 of Chapter 411 of the Statutes of 2012, is
35 repealed.

36 ~~5096.5. (a) Notwithstanding any other provision of this article,
37 an individual may not sign any attest report pursuant to a practice
38 privilege unless the individual meets the experience requirements
39 of Section 5095 and completes any continuing education or other~~

1 conditions required by the board regulations implementing this
2 article:

3 ~~(b) This section shall become operative on January 1, 2019.~~

4 SEC. 14. Section 5096.6 of the Business and Professions Code,
5 as added by Section 26 of Chapter 411 of the Statutes of 2012, is
6 amended to read:

7 5096.6. (a) In addition to the authority otherwise provided for
8 by this code, the board may delegate to the executive officer the
9 authority to issue any notice or order provided for in this article
10 and to act on behalf of the board, including, but not limited to,
11 issuing an interim suspension order, subject to the right of the
12 individual to timely appeal and request a hearing as provided for
13 in this article.

14 (b) This section shall become operative on July 1, 2013.

15 ~~(c) This section shall remain in effect only until January 1, 2019,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before January 1, 2019, deletes or extends that date.~~

18 SEC. 15. Section 5096.6 of the Business and Professions Code,
19 as added by Section 27 of Chapter 411 of the Statutes of 2012, is
20 repealed.

21 ~~5096.6. (a) In addition to the authority otherwise provided for
22 by this code, the board may delegate to the executive officer the
23 authority to issue any notice or order provided for in this article
24 and to act on behalf of the board, including, but not limited to,
25 issuing a notice of denial of a practice privilege and an interim
26 suspension order, subject to the right of the individual to timely
27 appeal and request a hearing as provided for in this article.~~

28 ~~(b) This section shall become operative on January 1, 2019.~~

29 SEC. 16. Section 5096.7 of the Business and Professions Code,
30 as added by Section 29 of Chapter 411 of the Statutes of 2012, is
31 amended to read:

32 5096.7. (a) Anywhere the term “license,” “licensee,” “permit,”
33 or “certificate” is used in this chapter or Division 1.5 (commencing
34 with Section 475), it shall include persons holding practice
35 privileges under this article, unless otherwise inconsistent with the
36 provisions of the article.

37 (b) Anywhere the term “employee” is used in this article it shall
38 include, but is not limited to, partners, shareholders, and other
39 owners.

1 (c) For purposes of this article, the term “license” includes
2 certificate or permit.

3 (d) This section shall become operative on July 1, 2013.

4 ~~(e) This section shall remain in effect only until January 1, 2019,
5 and as of that date is repealed, unless a later enacted statute, that
6 is enacted before January 1, 2019, deletes or extends that date.~~

7 SEC. 17. Section 5096.7 of the Business and Professions Code,
8 as added by Section 30 of Chapter 411 of the Statutes of 2012, is
9 repealed.

10 ~~5096.7. Except as otherwise provided in this article, the
11 following definitions apply:~~

12 ~~(a) Anywhere the term “license,” “licensee,” “permit,” or
13 “certificate” is used in this chapter or Division 1.5 (commencing
14 with Section 475), it shall include persons holding practice
15 privileges under this article, unless otherwise inconsistent with the
16 provisions of the article.~~

17 ~~(b) Any notice of practice privileges under this article and
18 supporting documents is deemed an application for licensure for
19 purposes of the provisions of this code, including, but not limited
20 to, the provisions of this chapter and the provisions of Division
21 1.5 (commencing with Section 475) related to the denial,
22 suspension, and revocation of licenses.~~

23 ~~(c) Anywhere the term “employee” is used in this article it shall
24 include, but is not limited to, partners, shareholders, and other
25 owners.~~

26 ~~(d) This section shall become operative on January 1, 2019.~~

27 SEC. 18. Section 5096.8 of the Business and Professions Code
28 is repealed.

29 ~~5096.8. In addition to the authority otherwise provided by this
30 code, all investigative powers of the board, including those
31 delegated to the executive officer, shall apply to investigations
32 concerning compliance with, or actual or potential violations of,
33 the provisions of this article or implementing regulations, including,
34 but not limited to, the power to conduct investigations and hearings
35 by the executive officer under Section 5103 and to issuance of
36 subpoenas under Section 5108.~~

37 SEC. 19. Section 5096.9 of the Business and Professions Code
38 is repealed.

39 ~~5096.9. (a) The board is authorized to adopt regulations to
40 implement, interpret, or make specific the provisions of this article.~~

1 ~~(b) The board shall adopt emergency regulations in accordance~~
 2 ~~with the Administrative Procedure Act (Chapter 3.5 (commencing~~
 3 ~~with Section 11340) of Part 1 of Division 3 of Title 2 of the~~
 4 ~~Government Code) to establish policies, guidelines, and procedures~~
 5 ~~to initially implement this article as it goes into effect on July 1,~~
 6 ~~2013. The adoption of the regulations shall be considered by the~~
 7 ~~Office of Administrative Law to be necessary for the immediate~~
 8 ~~preservation of the public peace, health and safety, or general~~
 9 ~~welfare. The emergency regulations shall be submitted to the Office~~
 10 ~~of Administrative Law for filing with the Secretary of State in~~
 11 ~~accordance with the Administrative Procedure Act.~~

12 SEC. 20. Section 5096.10 of the Business and Professions
 13 Code is repealed.

14 ~~5096.10. (a) The provisions of this article shall only be~~
 15 ~~operative if there is an appropriation from the Accountancy Fund~~
 16 ~~in the annual Budget Act to fund the activities in the article and~~
 17 ~~sufficient hiring authority is granted pursuant to a budget change~~
 18 ~~proposal to the board to provide staffing to implement this article.~~

19 ~~(b) This section shall become operative on January 1, 2019.~~

20 SEC. 21. Section 5096.12 of the Business and Professions
 21 Code, as amended by Section 5 of Chapter 319 of the Statutes of
 22 2013, is amended to read:

23 5096.12. (a) A certified public accounting firm that is
 24 authorized to practice in another state and that does not have an
 25 office in this state may engage in the practice of public accountancy
 26 in this state through the holder of a practice privilege provided
 27 that:

28 (1) The practice of public accountancy by the firm is limited to
 29 authorized practice by the holder of the practice privilege.

30 (2) A firm that engages in practice under this section is deemed
 31 to consent to the personal, subject matter, and disciplinary
 32 jurisdiction of the board with respect to any practice under this
 33 section.

34 (b) The board may revoke, suspend, issue a fine pursuant to
 35 Article 6.5 (commencing with Section 5116), issue a citation and
 36 fine pursuant to Section 125.9, or otherwise restrict or discipline
 37 the firm for any act that would be grounds for discipline against a
 38 holder of a practice privilege through which the firm practices.

39 (c) A firm that provides the services described in subdivision

40 (d) of Section 5096 shall obtain a registration from the board.

1 ~~(d) This section shall remain in effect only until January 1, 2019,~~
2 ~~and as of that date is repealed, unless a later enacted statute, that~~
3 ~~is enacted before January 1, 2019, deletes or extends that date.~~

4 SEC. 22. Section 5096.12 of the Business and Professions
5 Code, as added by Section 36 of Chapter 411 of the Statutes of
6 2012, is repealed.

7 ~~5096.12. (a) A certified public accounting firm that is~~
8 ~~authorized to practice in another state and that does not have an~~
9 ~~office in this state may engage in the practice of public accountancy~~
10 ~~in this state through the holder of a practice privilege provided~~
11 ~~that:~~

12 ~~(1) The practice of public accountancy by the firm is limited to~~
13 ~~authorized practice by the holder of the practice privilege.~~

14 ~~(2) A firm that engages in practice under this section is deemed~~
15 ~~to consent to the personal, subject matter, and disciplinary~~
16 ~~jurisdiction of the board with respect to any practice under this~~
17 ~~section.~~

18 ~~(b) The board may revoke, suspend, issue a fine pursuant to~~
19 ~~Article 6.5 (commencing with Section 5116), or otherwise restrict~~
20 ~~or discipline the firm for any act that would be grounds for~~
21 ~~discipline against a holder of a practice privilege through which~~
22 ~~the firm practices.~~

23 ~~(c) This section shall become operative on January 1, 2019.~~

24 SEC. 23. Section 5096.13 of the Business and Professions
25 Code is repealed.

26 ~~5096.13. (a) The notification of intent to practice under a~~
27 ~~practice privilege pursuant to Section 5096 shall include the name~~
28 ~~of the firm, its address and telephone number, and its federal~~
29 ~~taxpayer identification number.~~

30 ~~(b) This section shall become operative on January 1, 2019.~~

31 SEC. 24. Section 5096.14 of the Business and Professions
32 Code is repealed.

33 ~~5096.14. (a) An individual shall not be deemed to be in~~
34 ~~violation of this article solely because he or she begins the practice~~
35 ~~of public accounting in California prior to notifying the board as~~
36 ~~indicated in subdivision (c) of Section 5096, provided the notice~~
37 ~~is given within five business days of the date practice begins. An~~
38 ~~individual who properly notifies the board within the five-day~~
39 ~~period provided for in this section shall be deemed to have a~~
40 ~~practice privilege from the first day of practice in California unless~~

1 the individual fails to timely submit the required fee pursuant to
2 subdivision (e) of Section 5096.

3 ~~(b) Subdivision (a) does not apply in those instances in which~~
4 ~~prior approval by the board is required pursuant to subdivision (g)~~
5 ~~of Section 5096.~~

6 ~~(c) In addition to any other applicable sanction, the board may~~
7 ~~issue a fine pursuant to Section 5096.3 for notifying the board~~
8 ~~more than five business days after beginning practice in California.~~

9 ~~(d) This section shall become operative on January 1, 2019.~~

10 SEC. 25. Section 5096.15 of the Business and Professions
11 Code is repealed.

12 ~~5096.15.—(a) It is the intent of the Legislature that the board~~
13 ~~adopt regulations providing for a lower fee or no fee for out-of-state~~
14 ~~accountants who do not sign attest reports for California clients~~
15 ~~under the practice privilege. These regulations shall ensure that~~
16 ~~the practice privilege program is adequately funded. These~~
17 ~~regulations shall be adopted as emergency regulations in~~
18 ~~accordance with Chapter 3.5 (commencing with Section 11340)~~
19 ~~of Part 1 of Division 3 of Title 2 of the Government Code and, for~~
20 ~~purposes of that chapter, the adoption of the regulations shall be~~
21 ~~considered by the Office of Administrative Law to be necessary~~
22 ~~for the immediate preservation of the public peace, health and~~
23 ~~safety, and general welfare.~~

24 ~~(b) This section shall become operative on January 1, 2019.~~

25 SEC. 26. Section 5096.20 of the Business and Professions
26 Code is amended to read:

27 5096.20. (a) To ensure that Californians are protected from
28 out-of-state licensees with disqualifying conditions who may
29 unlawfully attempt to practice in this state under a practice
30 privilege, prior to July 1, 2013, the board shall add an out-of-state
31 licensee feature to its license lookup tab of the home page of its
32 Internet Web site that allows consumers to obtain information
33 about an individual whose principal place of business is not in this
34 state and who seeks to exercise a practice privilege in this state,
35 that is at least equal to the information that was available to
36 consumers through its home page prior to January 1, 2013, through
37 the practice privilege form previously filed by out-of-state licensees
38 pursuant to Section 5096, as added by Chapter 921 of the Statutes
39 of 2004, and the regulations adopted thereunder. At minimum,
40 these features shall include all of the following:

1 (1) The ability of the consumer to search by name and state of
2 licensure.

3 (2) The disclosure of information in the possession of the board,
4 which the board is otherwise authorized to publicly disclose, about
5 an individual exercising a practice privilege in this state, including,
6 but not limited to, whether the board has taken action of any form
7 against that individual and, if so, what the action was or is.

8 (3) A disclaimer that the consumer must click through prior to
9 being referred to any other Internet Web site, which in plain
10 language explains that the consumer is being referred to an Internet
11 Web site that is maintained by a regulatory agency or other entity
12 that is not affiliated with the board. This disclaimer shall include
13 a link to relevant sections of this article that set forth disqualifying
14 conditions, including, but not limited to, Section 5096.2.

15 (4) A statement in plain language that notifies consumers that
16 they are permitted to file complaints against such individuals with
17 the board.

18 (5) A link to the Internet Web site or sites that the board
19 determines, in its discretion, provides the consumer the most
20 complete and reliable information available about the individual’s
21 status as a licenseholder, permitholder, or certificate holder.

22 (6) If the board of another state does not maintain an Internet
23 Web site that allows a consumer to obtain information about its
24 licensees including, but not limited to, disciplinary history, and
25 that information is not available through a link to an Internet Web
26 site maintained by another entity, a link to contact information for
27 that board, which contains a disclaimer in plain language that
28 explains that the consumer is being referred to a board that does
29 not permit the consumer to obtain information, including, but not
30 limited to, disciplinary history, about individuals through the
31 Internet Web site, and that the out-of-state board is not affiliated
32 with the board.

33 (b) The board shall biennially survey the Internet Web sites and
34 disclosure policies of other boards to ensure that its disclaimers
35 are accurate.

36 ~~(e) This section shall remain in effect only until January 1, 2019,~~
37 ~~and as of that date is repealed, unless a later enacted statute, that~~
38 ~~is enacted before January 1, 2019, deletes or extends that date.~~

39 SEC. 27. Section 5096.21 of the Business and Professions
40 Code is amended to read:

1 5096.21. (a) (1) On and after January 1, 2016, if the board
2 determines, through a majority vote of the board at a regularly
3 scheduled meeting, that allowing individuals from a particular
4 state to practice in this state pursuant to a practice privilege as
5 described in Section 5096, violates the board's duty to protect the
6 public, pursuant to Section 5000.1, the board shall require, by
7 regulation, out-of-state individuals licensed from that state, as a
8 condition to exercising a practice privilege in this state, to file the
9 notification form and pay the applicable fees as required by former
10 Section 5096, as added by Chapter 921 of the Statutes of 2004,
11 and regulations adopted thereunder.

12 (2) The board may adopt emergency regulations, in accordance
13 with the Administrative Procedure Act (Chapter 3.5 (commencing
14 with Section 11340) of Part 1 of Division 3 of Title 2 of the
15 Government Code), to implement this subdivision. The adoption
16 of the regulations shall be deemed an emergency and necessary
17 for the immediate preservation of the public peace, health, safety,
18 or general welfare for purposes of Sections 11346.1 and 11349.6
19 of the Government Code.

20 (b) The board shall, at minimum, consider the following factors
21 in making the determination required by subdivision (a):

22 (1) Whether the state timely and adequately addresses
23 enforcement referrals made by the board to the accountancy
24 regulatory board of that state, or otherwise fails to respond to
25 requests the board deems necessary to meet its obligations under
26 this article.

27 (2) Whether the state makes the disciplinary history of its
28 licensees publicly available through the Internet in a manner that
29 allows the board to adequately link consumers to an Internet Web
30 site to obtain information that was previously made available to
31 consumers about individuals from the state prior to January 1,
32 2013, through the notification form.

33 (3) Whether the state imposes discipline against licensees that
34 is appropriate in light of the nature of the alleged misconduct.

35 (c) Notwithstanding subdivision (a), if (1) the National
36 Association of State Boards of Accountancy (NASBA) adopts
37 enforcement best practices guidelines, (2) the board, upon a
38 majority vote at a regularly scheduled board meeting, issues a
39 finding after a public hearing that those practices meet or exceed
40 the board's own enforcement practices, (3) a state has in place and

1 is operating pursuant to enforcement practices substantially
2 equivalent to the best practices guidelines, and (4) disciplinary
3 history of a state's licensees is publicly available through the
4 Internet in a manner that allows the board to link consumers to an
5 Internet Web site to obtain information at least equal to the
6 information that was previously available to consumers through
7 the practice privilege form filed by out-of-state licensees pursuant
8 to former Section 5096, as added by Chapter 921 of the Statutes
9 of 2004, no practice privilege form shall be required to be filed by
10 any licensee of that state as required by subdivision (a), nor shall
11 the board be required to report on that state to the Legislature as
12 required by subdivision (d).

13 (d) (1) The board shall report to the relevant policy committees
14 of the Legislature, the director, and the public, upon request,
15 preliminary determinations made pursuant to this section no later
16 than July 1, 2015. The board shall, prior to January 1, 2016, and
17 thereafter as it deems appropriate, review its determinations made
18 pursuant to subdivision (b) to ensure that it is in compliance with
19 this section.

20 (2) This subdivision shall become inoperative on July 1, 2017,
21 pursuant to Section 10231.5 of the Government Code.

22 (e) On or before July 1, 2014, the board shall convene a
23 stakeholder group consisting of members of the board, board
24 enforcement staff, and representatives of the accounting profession
25 and consumer representatives to consider whether the provisions
26 of this article are consistent with the board's duty to protect the
27 public consistent with Section 5000.1, and whether the provisions
28 of this article satisfy the objectives of stakeholders of the
29 accounting profession in this state, including consumers. The
30 group, at its first meeting, shall adopt policies and procedures
31 relative to how it will conduct its business, including, but not
32 limited to, policies and procedures addressing periodic reporting
33 of its findings to the board.

34 (f) On or before January 1, 2018, the board shall prepare a report
35 to be provided to the relevant policy committees of the Legislature,
36 the director, and the public, upon request, that, at minimum,
37 explains in detail all of the following:

38 (1) How the board has implemented this article and whether
39 implementation is complete.

1 (2) Whether this article is, in the opinion of the board, more,
2 less, or equivalent in the protection it affords the public than its
3 predecessor article.

4 (3) Describes how other state boards of accountancy have
5 addressed referrals to those boards from the board, the timeframe
6 in which those referrals were addressed, and the outcome of
7 investigations conducted by those boards.

8 ~~(g) This section shall remain in effect only until January 1, 2019,~~
9 ~~and as of that date is repealed, unless a later enacted statute, that~~
10 ~~is enacted before January 1, 2019, deletes or extends that date.~~

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ATTACHMENT 3
**EXCERPTS FROM THE MINUTES
OF THE NOVEMBER 15-16, 2012
CBA MEETING**

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DUPLICATION PURPOSES.**



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 FACSIMILE: (916) 263-3675
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DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
NOVEMBER 15-16, 2012
CBA MEETING

Dolce Hayes Mansion
 200 Edenvale Ave.
 San Jose, CA 95136

Roll Call and Call to Order.

CBA President Marshal Oldman called the meeting to order at 1:04 p.m. on Thursday, November 15, 2012 at the Dolce Hayes Mansion. The meeting recessed at 3:59 p.m. President Oldman reconvened the meeting at 9:02 a.m. on Friday, November 16, 2012 and the meeting adjourned at 10:22 a.m.

CBA Members

November 15, 2012

Marshal Oldman, President	1:04 p.m. to 3:59 p.m.
Leslie LaManna, Vice President	1:04 p.m. to 3:59 p.m.
Michael Savoy, Secretary-Treasurer	1:04 p.m. to 3:59 p.m.
Sarah (Sally) Anderson	1:04 p.m. to 3:59 p.m.
Diana Bell	1:04 p.m. to 3:59 p.m.
Alicia Berhow	1:04 p.m. to 3:59 p.m.
Michelle Brough	1:04 p.m. to 3:59 p.m.
Donald Driftmier	1:04 p.m. to 3:59 p.m.
Herschel Elkins	1:04 p.m. to 3:59 p.m.
Laurence (Larry) Kaplan	1:04 p.m. to 3:59 p.m.
Louise Kirkbride	Absent
Kitak (K.T.) Leung	1:04 a.m. to 3:59 p.m.
Manuel Ramirez	1:04 p.m. to 3:59 p.m.
David Swartz	1:04 p.m. to 3:59 p.m.

CBA Members

November 16, 2012

Marshal Oldman, President	9:02 a.m. to 10:22 a.m.
Leslie LaManna, Vice President	Absent
Michael Savoy, Secretary-Treasurer	9:02 a.m. to 10:22 a.m.

Sarah (Sally) Anderson	9:02 a.m. to 10:22 a.m.
Diana Bell	9:02 a.m. to 10:22 a.m.
Alicia Berhow	9:02 a.m. to 9:44 a.m.
Michelle Brough	9:02 a.m. to 10:22 a.m.
Donald Driftmier	9:02 a.m. to 10:22 a.m.
Herschel Elkins	9:02 a.m. to 10:22 a.m.
Laurence (Larry) Kaplan	9:02 a.m. to 10:22 a.m.
Louise Kirkbride	Absent
Kitak (K.T.) Leung	9:02 a.m. to 10:22 a.m.
Manuel Ramirez	9:02 a.m. to 10:22 a.m.
David Swartz	9:02 a.m. to 10:22 a.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer
 Andrew Breece, Legislative Analyst
 Rich Andres, Information Technology Staff
 Manny Estacio, Information Technology Staff
 Paul Fisher, Supervising Investigative CPA
 Dominic Franzella, Chief, Licensing Division
 Rafael Ixta, Chief, Enforcement Division
 Nick Ng, Manager, Administration Unit
 Kari O'Connor, Board Relations Analyst
 Deanne Pearce, Assistant Executive Officer
 Kristy Shellans, Legal Counsel, Department of Consumer Affairs (DCA)
 Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)
 Matthew Stanley, Regulation Analyst

Committee Chairs and Members

Cheryl Gerhardt, Chair, Enforcement Advisory Committee (EAC)

Other Participants

Kevin Berggren, Center for Public Interest Law (CPIL)
 Jose A. Campos, Deloitte & Touche
 Michael Cohn, Administrative Law Judge (ALJ), Office of Administrative Hearings
 Jason Fox, California Society of CPAs (CalCPA)
 David Greenberg, Petitioner
 Ed Howard, CPIL
 Joe Petito, The Accountants Coalition
 Pilar Onate-Quintana, KP Public Affairs
 Jonathan Ross, KP Public Affairs
 Hal Schultz, CalCPA
 Jeannie Tindel, CalCPA

Mr. Ramirez thanked the Enforcement Division for its achievement of significantly reducing the number of investigations pending over 24 months.

Mr. Savoy inquired about the auditing that is done on the accounting firms that report that they are not subject to a peer review.

Mr. Ixta stated that all of the forms are reviewed and that staff sample a select amount of the forms for accuracy.

Ms. Anderson commented that it is important to get the message out to consumers about requesting peer review results from their CPA.

Ms. Bowers stated that as part of peer review outreach, the CBA is focusing on how to get the message out to consumers. Ms. Bowers further stated that information included in the CBA Consumer Assistance Handbook, suggest that consumers should request a peer review prior to engaging the services of a CPA.

X. Committee and Task Force Reports.

A. Committee on Professional Conduct (CPC) (Michael Savoy, Chair).

1. Report of the November 15, 2012 CPC Meeting.
2. Project Plan for Implementation of the Practice Privilege Provisions for Senate Bill 1405 Set to Take Effect July 1, 2013.

Mr. Savoy stated that CBA staff provided information on activities being undertaken related to implementing the new practice privilege provisions recently included in SB 1405. Mr. Savoy further stated that the information includes anticipated dates on when items will be brought to the CBA for action and when the CBA is mandated to provide certain reports to various stakeholders. Mr. Savoy stated that this item was informational and the CPC took no action.

3. Discussion and Policy Decisions on a Potential Rulemaking Regarding Practice Privilege.

Mr. Savoy stated that the CPC discussed information on initial concepts for draft regulatory language to implement the practice privilege provisions included in SB 1405. The areas discussed include: establishing substantial equivalency, practice privilege forms; out-of-state accounting firms registration; appeals; response to a board inquiry; and definitions for the terms

“Headquartered in California,” “Principal Place of Business,” and “Minor Traffic Violations.”

It was moved by Mr. Savoy, seconded by Ms. Anderson and unanimously carried by those present to adopt the CPC’s recommendation to have staff develop regulatory language which would incorporate NASBA’s list of substantially equivalent states as being equivalent to California’s Pathway 2 qualifications. Additionally, the CPC recommends that staff develop regulatory language requiring the use of NASBA’s CredentialNet to determine individual substantial equivalency.

Mr. Savoy reported that the CPC considered options for defining the terms, “Headquartered in California,” “Principal Place of Business,” and “Minor Traffic Violation” via regulation.

It was moved by Mr. Savoy, seconded by Mr. Ramirez and unanimously carried by those present to adopt the CPC’s recommendation to define “Headquartered in California” using the UAA definition of “Home Office.”

It was moved by Mr. Savoy, seconded by Ms. Anderson and unanimously carried by those present to adopt the CPC’s recommendation to use the UAA definition for “Principal Place of Business.”

It was moved by Mr. Savoy, seconded by Mr. Ramirez and unanimously carried by those present to adopt the CPC’s recommendation to use the definition for “Minor Traffic Violation” already established by the CBA.

Mr. Savoy stated that three forms will need to be developed for individuals to use for the new practice privilege provisions. The Pre-Notification and Cessation of Practice Forms are required by statute. Mr. Savoy further stated that staff believe a third form titled “Reinstatement of a Practice Privilege” should be developed for those individuals petitioning the CBA for reinstatement of a practice privilege.

It was moved by Mr. Savoy, seconded by Mr. Swartz and unanimously carried by those present to adopt the CPC’s recommendation to have staff develop a form for reinstatement of a revoked practice privilege.

It was moved by Mr. Savoy, seconded by Mr. Elkins and unanimously carried by those present to adopt the CPC's recommendation to require the names of owners of the entities registering the firm be collected, and that fingerprints are not required as part of the registration process.

It was moved by Mr. Ramirez, seconded by Mr. Swartz and unanimously carried by those present to adopt the CPC's recommendation that firms be required to renew their registration every two years.

Mr. Savoy reported that the CPC discussed how the CBA can take action to suspend an individual's right to practice under a practice privilege and whether the CBA wanted to delegate to the EO the authority to review and render a decision for such matters and, if so, did the CBA want to allow for a mechanism to appeal the EO's decision in order to provide a level of due process.

Mr. Savoy stated that the CPC recommends that the CBA delegate to the EO the authority to review and render decisions for these matters and to develop an appeals process similar to that found in CBA Regulation Section 49 to allow an individual to appeal the EO's decision to the CBA.

It was moved by Mr. Elkins, seconded by Mr. Swartz and carried by those present to adopt the CPC's recommendation to delegate to the EO the authority to review and render decisions and to develop an appeals process similar to that found in CBA Regulation Section 49, to allow an individual to appeal the EO's decision to the CBA. Mr. Ramirez abstained.

Mr. Savoy stated that the CPC reviewed a plan to implement a requirement that out-of-state individuals be required to respond to a CBA inquiry.

It was moved by Mr. Elkins, seconded by Mr. Ramirez and unanimously carried by those present to adopt the CPC's recommendation to have staff develop regulatory language similar to the language found in Section 34.

4. Implementation of Section 27 of the Business and Professions Code and Consideration of Legislative Proposal Providing for Limitations on Timeframes for Posting.

Mr. Savoy reported that the CPC discussed whether certain exceptions to Business and Professions Code Section 27, regarding the posting of Enforcement Actions on the CBA's website should be considered.

Mr. Savoy further stated that the CPC recommends that staff pursue a legislative change in 2013 to authorize the removal of citations from the website that are older than five years from the date of issuance and \$1500 or less.

It was moved by Mr. Swartz, seconded by Mr. Ramirez and carried by those present to adopt the CPC's recommendation to pursue legislation in 2013 to authorize the removal of citations that are over five years from the date of issuance and \$1500 or less, from the CBA website. Mr. Elkins abstained.

5. Consideration of Options to Allow Individuals to Continue to Apply for and Obtain CPA Licensure Under Pathway 1 and Pathway 2 After the New Educational Requirements in Business and Professions Code Section 5093 Take Effect on January 1, 2014.

Mr. Savoy stated that the CPC discussed possible options to extend the deadline for individuals to qualify for CPA licensure under the present pathways. Mr. Savoy further stated that to ensure that students intending to apply under Pathway 1, are reasonably afforded sufficient time to obtain the necessary experience, the CPC recommends that the CBA pursue legislation in 2013 to extend the option to apply under the present pathways for individuals who have passed all four parts of the Uniform CPA Exam on or before December 31, 2013. Mr. Savoy noted that this limited extension to apply would only exist for a two-year period.

It was moved by Mr. Elkins, seconded by Mr. Ramirez and unanimously carried by those present to adopt the CPC's recommendation to pursue legislation in 2013 to extend the option to apply under the present pathways for individuals who have passed all four parts of the CPA Exam on or before December 31, 2013, while only providing the ability to continue to apply under this option for a two-year period.

- B. Legislative Committee (LC) Sally Anderson, Chair).

1. Report of the November 15, 2012 LC Meeting.

ATTACHMENT 4
**EXCERPTS FROM THE MINUTES
OF THE JANUARY 24-25, 2013
CBA MEETING**

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DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
JANUARY 24-25, 2013
CBA MEETING

Sheraton Suites San Diego
 701 A. St.
 San Diego, CA 92101
 Telephone: (619) 696-9800
 Fax: (619) 696-1550

Roll Call and Call to Order.

CBA President Leslie LaManna called the meeting to order at 1:02 p.m. on Thursday, January 24, 2013 at the Sheraton Suites at Symphony Hall in San Diego. The meeting recessed at 3:59 p.m. President LaManna reconvened the meeting at 9:00 a.m. on Friday, January 25, 2013 and the meeting adjourned at 9:55 a.m.

CBA Members

January 24, 2013

Leslie LaManna, President	1:02 p.m. to 3:59 p.m.
Michael Savoy, Vice President	1:02 p.m. to 3:59 p.m.
K.T. Leung, Secretary-Treasurer	Absent
Sarah (Sally) Anderson	1:02 p.m. to 3:59 p.m.
Diana Bell	1:02 p.m. to 3:59 p.m.
Alicia Berhow	1:02 p.m. to 3:59 p.m.
Michelle Brough	Absent
Jose Campos	1:02 p.m. to 3:59 p.m.
Herschel Elkins	1:02 p.m. to 3:59 p.m.
Laurence (Larry) Kaplan	1:02 p.m. to 3:59 p.m.
Louise Kirkbride	Absent
Marshal Oldman	1:02 p.m. to 3:59 p.m.
Manuel Ramirez	1:02 p.m. to 3:59 p.m.
Katrina Salazar	1:02 p.m. to 3:59 p.m.

CBA Members

January 25, 2013

Leslie LaManna, President	9:00 a.m. to 9:55 a.m.
Michael Savoy, Vice President	9:00 a.m. to 9:55 a.m.
K.T. Leung, Secretary-Treasurer	Absent
Sarah (Sally) Anderson	9:00 a.m. to 9:55 a.m.
Diana Bell	9:00 a.m. to 9:55 a.m.
Alicia Berhow	9:00 a.m. to 9:55 a.m.
Michelle Brough	Absent
Jose Campos	9:00 a.m. to 9:55 a.m.
Herschel Elkins	9:00 a.m. to 9:55 a.m.
Laurence (Larry) Kaplan	9:00 a.m. to 9:55 a.m.
Louise Kirkbride	9:00 a.m. to 9:55 a.m.
Marshal Oldman	9:00 a.m. to 9:55 a.m.
Manuel Ramirez	9:00 a.m. to 9:55 a.m.
Katrina Salazar	9:00 a.m. to 9:55 a.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer
Andrew Breece, Legislative Analyst
Rich Andres, Information Technology Staff
Paul Fisher, Supervising Investigative CPA
Dominic Franzella, Chief, Licensing Division
Rafael Ixta, Chief, Enforcement Division
Kari O'Connor, Board Relations Analyst
Deanne Pearce, Assistant Executive Officer
Kristy Shellans, Legal Counsel, Department of Consumer Affairs (DCA)
Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)
Matthew Stanley, Regulation Analyst

Committee Chairs and Members

Cheryl Gerhardt, Chair, Enforcement Advisory Committee (EAC)

Other Participants

Kevin Berggren, Center for Public Interest Law (CPIL)
Don Driftmier, CPA
Reichel Everhart, Deputy Director of Board Relations, DCA
Hal Schultz, California Society of CPAs (CalCPA)
Jeannie Tindel, CalCPA

I. Report of the President

Ms. LaManna introduced recently-appointed CBA members Jose Campos

Administrative Law Judge.

It was moved by Ms. Berhow, seconded by Ms. Anderson and unanimously carried by those present to accept the EPOC's recommendation to accept the concept of the Model Petition for Reinstatement Decision Checklist and add another option allowing for precedent condition prior to placing the licensee on probation.

3. Discussion Regarding New Optional Conditions of Probation to be Used in Lieu of Monetary Administrative Penalties.

Ms. Berhow stated that the EPOC discussed the addition of an optional condition of probation allowing the imposition of non-monetary administrative penalties. Ms. Berhow further stated that the EPOC concluded that adding a new optional condition for non-monetary administrative penalties was not needed at this time and the EPOC agreed that non-monetary penalties can presently be used during the Stipulation and Settlement agreement process; therefore, no addition is needed to the CBA Disciplinary Guidelines.

There was no action taken on this item.

B. Committee on Professional Conduct (CPC) (Michael Savoy, Chair).

1. Report of the January 24, 2013 CPC Meeting.
2. Discussion and Possible Action to Initiate an Emergency Rulemaking and Regular Rulemaking to Adopt Title 16, California Code of Regulations Sections 5.5, 18, 19, 20, 21, 22, 26, 36.1 and 98 Regarding Practice Privilege.

Mr. Savoy reported that the CPC discussed proposed regulatory language to implement the new practice privilege provisions, which included a list of substantially equivalent states, definitions, forms, an appeals process and revisions to the CBA Disciplinary Guidelines. Mr. Savoy further stated that staff will present the final regulatory language of the proposal and a Finding of Emergency for adoption at the March CBA meeting.

It was moved by Mr. Oldman, seconded by Ms. Berhow and unanimously carried by those present that the CBA accept the CPC recommendation to approve the proposed regulatory language while removing the definition of "headquartered in California," and direct staff to begin drafting the necessary rulemaking documents.

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ATTACHMENT 5

**CALIFORNIA BOARD OF
ACCOUNTANCY PRACTICE
PRIVILEGE: *PRELIMINARY
DETERMINATIONS REPORT*
*JULY 1, 2015***

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CALIFORNIA BOARD OF ACCOUNTANCY



PRACTICE PRIVILEGE: PRELIMINARY DETERMINATIONS REPORT JULY 1, 2015

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INTRODUCTION

This report is prepared in compliance with Business and Professions Code (BPC) section 5096.21(d) to report on the California Board of Accountancy's (CBA) preliminary determinations made pursuant to BPC section 5096.21. The information in this report will be considered by the CBA when it makes its determinations as to whether allowing individuals from a particular state to practice in California pursuant to a practice privilege violates its duty to protect the public. If this determination shows the public is at risk, the licensees of those particular states would, following a rulemaking by the CBA, revert back to using the prior practice privilege program with its notice and fee provisions. These determinations are to be made on and after January 1, 2016.

To the CBA, a practice privilege is the legal authority for an individual licensee of another state (defined, in BPC section 5032, as any state, territory or insular possession of the United States, or the District of Columbia) to practice public accountancy in California without the requirement to obtain a California certified public accountant (CPA) license. The CBA's mission is to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards; therefore, it is critical to the CBA that the California practice privilege law sufficiently protects California consumers. Likewise, the California Legislature placed certain protections into the practice privilege law found in BPC sections 5096 through 5096.21.

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DUPLICATION PURPOSES.**

PROGRAM OVERVIEW

If a CPA licensee's principal place of business is located outside California and he or she holds a valid and current license, certificate, or permit to practice public accountancy from another state, he or she may qualify to practice public accountancy in California under a practice privilege, without giving notice or paying a fee, provided one of the following conditions is met:

- They have continually practiced public accountancy as a CPA under a valid license issued by any state for at least four of the last 10 years.
- They hold a valid license, certificate, or permit to practice public accountancy from a state determined by the CBA to be substantially equivalent to the licensure qualifications in California under BPC section 5093.
- They possess education, examination, and experience qualifications which have been determined by the CBA to be substantially equivalent to the licensure qualifications in California.

A licensee is required to notify and receive written permission from the CBA prior to practicing public accountancy in California if, within the seven years immediately preceding the date on which he or she wishes to practice in this state, certain conditions apply as outlined in BPC Section 5096(i).

If any of those conditions apply, the licensee must submit a completed notification form and await written permission from the CBA prior to engaging in the practice of public accountancy in California.

If an individual exercises a practice privilege and subsequently acquires any condition disqualifying them from holding a California practice privilege, they must cease practicing immediately and notify the CBA in writing within 15 days of the occurrence of the cessation event using the "Notification of Cessation of Practice Privilege Form" (PP-11(1/13)).

If an individual is exercising a practice privilege in California, they are required to notify the CBA in writing of any pending criminal charges, other than for a minor traffic violation, within 30 days of the date they have knowledge of those charges.

If an individual intends to provide audit or attestation services for an entity headquartered in California, they may only do so through an accounting firm registered with the CBA.

An accounting firm that is authorized to practice public accountancy in another state and that does not have an office in this state must register with the CBA prior to performing attest services for an entity headquartered in California.

To register an out-of-state accounting firm, while there is no fee, an applicant must first complete the "Out-of-State Accounting Firm Registration Form" (PP-13(1/13)). The out-

of-state accounting firm registration must be renewed every two years in order for the out-of-state accounting firm to maintain practice rights in California. The out-of-state accounting firm must also notify the CBA of any change of address or change in ownership within 30 days of the change.

BACKGROUND

Starting in 2006, the California practice privilege law required out-of-state CPA licensees to file a written notice and pay a fee to the CBA in order to obtain a practice privilege. A practice privilege differed from a California license in that the individual could not have a principal place of business in California and had to file for a new practice privilege every year.

Senate Bill 1405 (DeLeón, Chapter 411 of 2012) removed the notice and fee requirements and significantly amended the consumer protection provisions of the law. The new practice privilege law, which went into effect on July 1, 2013, grants a practice privilege to out-of-state licensees who meet certain requirements including holding a CPA license from a state which the CBA determines has substantially equivalent education, examination and experience requirements to California. The CBA designated such states when it adopted Division 1, Title 16 of the California Code of Regulations (CBA Regulations) section 5.5 listing the substantially equivalent states.

In order to ensure that the practice privilege program was protecting consumers, BPC section 5096.21(a) requires the CBA to determine whether allowing individuals from a particular state to practice in California pursuant to a practice privilege violates its duty to protect the public. If the determination is made that allowing individuals from a particular state puts consumers at risk, the CBA will need to require out-of-state individuals licensed from that state, as a condition to exercising a practice privilege in this state, to provide the notice and pay the fees as required under the previous practice privilege program. This determination will be made by the CBA on a continuing basis on and after January 1, 2016 pursuant to BPC section 5096.21(a).

In BPC section 5096.21(b), the Legislature requires the CBA to consider the following three factors as it makes these determinations:

- (1) Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.
- (2) Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet Web site to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.
- (3) Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

The purpose of this report is to provide the Legislature with the preliminary determinations the CBA will use as it determines whether allowing individuals from a particular state to practice in California pursuant to a practice privilege violates its duty to protect the public.

BASIS FOR MAKING DETERMINATIONS

In making these preliminary determinations, the CBA relied on information provided by its Enforcement Division, an analysis of information available to the public through the Internet, and information provided by the National Association of State Boards of Accountancy (NASBA). It reviewed this information and this report at its March and May 2015 meetings.

To ensure that this information is accurate, the CBA has sent a letter to each state explaining California's practice privilege law and requesting the following information:

- Confirmation of information CBA staff have found online regarding information each state posts on the Internet about their licensees
- Additional information, not identified by CBA staff, that may be available online regarding enforcement
- The number of CPA licensees
- Whether the state has a mandatory peer review process
- The number of enforcement referrals that state has made to the CBA
- The state's responses to the CBA's enforcement referrals to that state
- Information on whether the state maintains disciplinary guidelines and how it maintains consistency of discipline.

As the CBA proceeds towards making final determinations on and after January 1, 2016, it will ask its staff to gather additional and current information so that the determinations will be based on the best available information.

PRELIMINARY DETERMINATIONS

The following are preliminary determinations the CBA has made regarding the three factors the Legislature has identified.

Timely and Adequately Addressing Enforcement Referrals

The CBA communicates enforcement referrals to other states through two separate methods, the Accountancy Licensing Database (ALD) and direct communication. ALD is a national licensing database for state boards of accountancy, and all CBA disciplinary actions are uploaded on a daily basis. In addition, the CBA sends disciplinary information directly to other states when it is determined that the licensee is licensed in another state.

Through these two methods, other states are made aware of disciplinary action taken by the CBA. Once a state receives this information, it may need to consider a number of factors before deciding whether to pursue its own enforcement action. Such considerations might include the nature of the violation, that state's laws and regulations, and risk to that state's consumers.

Since 2009, the CBA has referred 77 disciplinary matters to 37 states. These 77 licensees are prohibited from practicing in California under a practice privilege without written authorization from the CBA.

The CBA will initially be using California's current performance measures as a guideline for making this determination. Those performance measures are as follows:

- Intake: 10 days
- Intake and Investigation: 180 days
- Formal Discipline: 540 days

Intake is the average time from complaint receipt, to the date the complaint was assigned to an investigator. Intake and investigation is the average time from complaint receipt to closure of the investigation process, but it does not include cases sent to the Attorney General or other forms of formal discipline. Formal discipline is the average time to complete the entire enforcement process for cases resulting in formal discipline and includes intake and investigation by the CBA and prosecution by the Attorney General.

Disciplinary History Publically Available Through the Internet

An important part of disciplinary history is the current license status. The current status of a CPA license can be ascertained online for every state except for Maryland, which only posts its active status licensees on its website, and Washington, which does not differentiate between Suspended and Revoked.

In addition, many states provide an indicator either on their website or on CPAVerify that informs a consumer that a license has an enforcement action history regardless of the current status of a license. It is possible for a license in an active status to have had previous enforcement actions against it. Based on preliminary information gathered by the CBA, it appears that 31 states (California would make it 32) provide this indicator and an additional five states provide it for at least some of their licensees.

Finally, those states that provide the full disciplinary details online provide a consumer with the maximum amount of information regarding an enforcement action. This level of detail exceeds what was reported on the notification form under the prior practice privilege program. Based on preliminary information gathered by the CBA, three states (California would make it four) provide full disciplinary details and documents online. An additional 13 states provide at least some detail regarding their enforcement actions. This detail can range from dates of discipline to a full description of the violation just short of providing the disciplinary documents.

The CBA will be looking for the information that was previously available on the former practice privilege notification form that was used in the CBA's notice and fee practice privilege program.

Specifically, on the form, an applicant had to answer "Yes" or "No" to the following statement:

"I have had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned except for the following occurrences:

- (1) An action by a state board of accountancy in which the only sanction was a requirement that the individual complete specified continuing education courses.*
- (2) The revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew."*

Access to this information to the public will be the benchmark for what another state would need to make available on the Internet. Specifically, beyond standard licensing information, the CBA will be looking for whether prior discipline is indicated on the Internet.

Appropriate Discipline in Light of the Misconduct

In order to make a preliminary assessment regarding whether the discipline of a particular state is appropriate, the CBA looked at whether a state has and uses written disciplinary guidelines of some kind (whether in law, rule or policy; and covering some or all violations) and the method used by the state for ensuring consistency of discipline. This information was derived from a survey of state boards of accountancy conducted by NASBA during the fall and winter of 2014-15.

Based on this preliminary assessment, 35 states currently rely on some kind of disciplinary guidelines with an additional state in the process of developing guidelines.

Based on the NASBA survey, it appears that 16 states rely on those guidelines to ensure consistency of discipline, one state uses a complaint committee, and 23 states primarily rely on precedent in ensuring consistency. For the three states with the lowest licensee population, consistency was not an issue as they had little to no discipline. The rest of the states evaluate each matter on a case-by-case basis.

When making this portion of the determination, the CBA will also consider the number of licensees in each state and each state's size, procedures and laws.

NASBA's GUIDING PRINCIPLES OF ENFORCEMENT

BPC section 5096.21(a) requires the CBA to determine whether allowing individuals from a particular state to practice in California pursuant to a practice privilege violates its duty to protect the public on and after January 1, 2016. BPC 5096.21(c) provides another means that a state may be determined to be protecting the public, and thus may remain in the no notice, no fee practice privilege program.

To remain in the current program under BPC 5096.21(c), the following four statutory conditions must be met:

1. NASBA adopts enforcement best practices guidelines
2. The CBA issues a finding that those practices meet or exceed the CBA's own enforcement practices
3. A state has in place, and is operating pursuant to, enforcement practices substantially equivalent to the best practices guidelines
4. Disciplinary history of a state's licensees is publicly available through the Internet in a manner that allows the CBA to link consumers to a website. The information available must be at least equal to the information that was previously available to consumers through the practice privilege form that was used in the CBA's notice and fee practice privilege program

On May 12, 2015, NASBA released its Guiding Principles of Enforcement (Enforcement Guidelines), fulfilling the first condition above.

At its May 2015 meeting, the CBA held a public hearing and issued a finding that the NASBA Enforcement Guidelines meet or exceed the CBA's own enforcement practices, fulfilling the second condition above.

Going forward, the CBA will begin reviewing the enforcement practices of other states to determine if they are substantially equivalent to the NASBA Enforcement Guidelines. In addition, the CBA will be reviewing the level of information that each state makes publically available through the Internet.

CONCLUSION

The information provided in this report, and any other additional information it requests to be collected, will be considered by the CBA as it makes its determinations as to whether allowing individuals from a particular state to practice in California pursuant to a practice privilege violates its duty to protect the public. The information in this report may change, or additional information may be requested by the CBA, over the next six months prior to the determinations being made. The CBA will rely on the most current information available in order to make its determinations regarding consumer protection.

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ATTACHMENT 6
**CALIFORNIA BOARD OF
ACCOUNTANCY
MOBILITY STAKEHOLDER GROUP
ANNUAL REPORTS
2014-2017**

CALIFORNIA BOARD OF ACCOUNTANCY



MOBILITY STAKEHOLDER GROUP

ANNUAL REPORT
2014

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I. MESSAGE FROM THE CHAIR

I am pleased to present the California Board of Accountancy (CBA) with the Mobility Stakeholder Group's (MSG) 2014 Annual Report.

The MSG worked diligently throughout 2014 to fulfill its statutory mandate of ensuring the practice privilege law is protecting the consumers of this state. During 2014, the MSG defined who the stakeholders are in California's practice privilege program by adopting the broad definition of "stakeholder" as used in the CBA's 2013-2015 Strategic Plan, and clarified the stakeholder objectives. In addition, the MSG began its consideration of the consumer protection provisions of the practice privilege law, as well as established a firm foundation on how to proceed, and adopted policies and procedures, to include frequency of meetings and periodic reporting to the CBA.

As we approach the second year of the MSG's directive, we are ready for new challenges. The MSG will continue considering the consumer protection provisions, further discuss and clarify stakeholder objectives, and review the National Association of State Boards of Accountancy's (NASBA) national enforcement guidelines when they are released later this year.

It has been a pleasure to work on behalf of consumers, and I would like to thank the CBA for the opportunity to serve as Chair of the MSG. I would also like to express my appreciation for the dedication of those serving on the MSG. The MSG has made continuous strides towards enhancing consumer protection and will continue to strive to remain on the forefront of providing the best and most articulate information to consumers and licensees alike.

With the first year complete, I look forward to another successful year working on behalf of consumers with the highly qualified members of the MSG.

Katrina L. Salazar, CPA, CBA Vice President
MSG Chair

II. BACKGROUND

Legislation enacted in 2012 (Stats. 2012, ch. 411 (Senate Bill (SB) 1405)) rewrote the CBA's practice privilege provisions (Article 5.1, Chapter 1, Division 3 of the Business and Professions Code (BPC)), which became effective July 1, 2013 and shall become inoperative on January 1, 2019. The new provisions beginning at section 5096 of the BPC allow individuals, whose principal place of business is outside of California and are licensed in states that have licensing requirements substantially equivalent to California's, to practice in California under a practice privilege conferred by operation of law without providing a notice or paying a fee. Prior to the passage of SB 1405, individuals possessing out-of-state licenses to practice public accountancy were required to notify the CBA, as well as pay a fee in order to practice public accountancy in California.

BPC section 5096.21(e) creates the MSG and, in addition, states in part:

The group, at its first meeting, shall adopt policies and procedures relative to how it will conduct its business, including but not limited to, policies and procedures addressing periodic reporting of its findings to the board.

Effective July 1, 2013, sections 26 – 35.1 of Title 16, Division 1 of the California Code of Regulations (CBA Regulations) became inoperative, and were simultaneously replaced by new sections 5.5 and 18 – 22 of CBA Regulations.

III. MSG RESPONSIBILITIES

The MSG derives its authority from BPC section 5096.21(e). The roles and responsibilities of the MSG, as defined by the law and the CBA, are as follows:

- Hold meetings as necessary in order to conduct business,
- Adopt policies and procedures relative to how it will conduct its business, including, but not limited to, policies and procedures addressing periodic reporting of its findings to the board,
- Consider whether the practice privilege provisions are consistent with the CBA's duty to protect the public in accordance with BPC section 5000.1,
- Consider whether the mobility law satisfies the objectives of stakeholders of the accounting profession, including consumers,
- Prepare an Annual Report to the CBA highlighting its activities.

IV. COMMITTEE MEMBERS

The MSG is comprised of seven members, which consists of members of the CBA, CBA enforcement staff, representatives of the accounting profession, and consumer representatives.

Immediate Past-President of the CBA Michael Savoy appointed the seven members of the MSG, including CBA member Katrina Salazar as Chair, and Harold Schultz as Vice-Chair of the MSG.

2014 Membership

Katrina Salazar, CPA, Chair and CBA member

Harold S. Schultz, CPA, Vice-Chair and accounting profession representative

Jose A. Campos, CPA and CBA member

Edward Howard, Esq. – consumer representative

Rafael Ixta – CBA Enforcement Division Chief

Joseph P. Petito, Esq. – accounting profession representative

Stuart Waldman, Esq. – consumer representative

V. LEGISLATION AND REGULATIONS

To further enhance consumer protection, the CBA pursued legislative and regulatory changes to the program in 2013 and 2014. Effective January 1, 2014, BPC section 5096(e)(10) was added to Article 5.1 by SB 822 (Stats. 2013, Ch. 319) to require practice privilege holders to notify the CBA of any pending criminal charges, other than minor traffic violations, in any jurisdiction. In 2014, the CBA sought a further change to that same section to clarify that the individual had to be exercising the practice privilege in order to trigger the requirement to report pending criminal charges. In addition, SB 1467 (Stats. 2014, Ch. 400) stated that such a report must be made to the CBA in writing within 30 days. These new provisions took effect January 1, 2015.

In 2014, the CBA proposed an amendment to CBA Regulations section 19 to create a Practice Privilege Notification of Pending Criminal Charges form. This form will be used by individuals to report pending criminal charges.

VI. PROGRAM OVERVIEW

If a licensee's principal place of business is located outside California and he or she holds a valid and current license, certificate, or permit to practice public accountancy from another state, he or she may qualify to practice public accountancy in California under a practice privilege, without giving notice or paying a fee, provided one of the following conditions is met:

- They have continually practiced public accountancy as a CPA under a valid license issued by any state for at least four of the last 10 years.
- They hold a valid license, certificate, or permit to practice public accountancy from a state determined by the CBA to be substantially equivalent to the licensure qualifications in California under BPC section 5093.
- They possess education, examination, and experience qualifications which have been determined by the CBA to be substantially equivalent to the licensure qualifications in California.

A licensee is required to notify and receive written permission from the CBA prior to practicing public accountancy in California if, within the seven years immediately preceding the date on which he or she wishes to practice in this state, certain conditions apply as outlined in BPC Section 5096(i).

If any of those conditions apply, the licensee must submit a completed notification form and await written permission from the CBA prior to engaging in the practice of public accountancy in California.

If an individual exercises a practice privilege and subsequently acquires any condition disqualifying them from holding a California practice privilege, they

must cease practicing immediately and notify the CBA in writing within 15 days of the occurrence of the cessation event using the “Notification of Cessation of Practice Privilege Form” (PP-11(1/13)).

If an individual is exercising a practice privilege in California, they are required to notify the CBA in writing of any pending criminal charges, other than for a minor traffic violation, within 30 days of the date they have knowledge of those charges.

If an individual intends to provide audit or attestation services for an entity headquartered in California, they may only do so through an accounting firm registered with the CBA.

An accounting firm that is authorized to practice public accountancy in another state and that does not have an office in this state must register with the CBA prior to performing attest services for an entity headquartered in California.

To register an out-of-state accounting firm, while there is no fee, an applicant must first complete the “Out-of-State Accounting Firm Registration Form” (PP-13(1/13)). The out-of-state accounting firm registration must be renewed every two years in order for the out-of-state accounting firm to maintain practice rights in California. The out-of-state accounting firm must also notify the CBA of any change of address or change in ownership within 30 days of the change.

VII. STATISTICS

The following is statistical information for the Licensing, Enforcement, and Administration Divisions for the calendar year 2014 as it pertains to the new practice privilege program. The information listed below is categorized into sections detailing Out-of-State Accounting Firm Registration information, customer service and the volume of contact with consumers and licensees, enforcement-related referrals and investigations, and the CBA’s use of the website to enhance consumer protection.

Licensing Division

The Practice Privilege Unit within the Licensing Division is responsible for two main functions associated with the practice privilege program: (1) processing out-of-state accounting firm registrations and (2) providing customer service in response to telephone calls and e-mails.

Out-of-State Accounting Firm Registration (OFR)

The practice privilege provisions require practice privilege holders providing certain attestation services to California-headquartered entities to do so only through a firm registered with the CBA. These accounting firms must submit a

registration form and obtain approval from the CBA prior to providing these services.

Below is the statistical data associated with processing OFRs for the 2014 calendar year.

Out-of-State Firm Registrations		2014 Totals
Total Registration Applications Received		300
Total Registration Applications Approved		280
Total Registration Applications Referred to Enforcement		10

Service to Stakeholders

The Practice Privilege Unit is the primary point of contact associated with the practice privilege program. Providing excellent service to stakeholders while effectively communicating the requirements of California’s practice privilege law is an important part of the efficient functioning of the unit. Below is the statistical data for the total number of telephone calls and e-mails for the 2014 calendar year.

Stakeholder Contact		2014 Totals
Telephone		529
E-mails		401

Enforcement Division

The Enforcement Division is responsible for numerous consumer protection aspects of the practice privilege program, including processing pre-notification and cessation notification forms, reviewing the Securities and Exchange Commission’s (SEC) and Public Company Accounting Oversight Board’s (PCAOB) websites for CPAs that have been disciplined by those entities, reviewing OFR referrals from the Practice Privilege Unit, and reviewing complaints received against practice privilege holders. The following is statistical data associated with the various Enforcement Division activities for the 2014 calendar year.

Enforcement Division Activities	2014 Totals
Pre-Notification Forms Received	1
Cessation Notification Forms Received	0
SEC Discipline Identified*	33
PCAOB Discipline Identified*	14
Out-of-State Accounting Firms Referred by Licensing Division for Reported Other Discipline	10
Out-of-State Accounting Firm Registrations Denied	1
Complaints Against Practice Privilege Holders Received	7

*These numbers reflect discipline against licensees from all jurisdictions and is not limited to California licensees or practice privilege holders.

Administration Division

Website Usage

One of the key components of providing widespread consumer protection is by continuously striving to ensure consumers and out-of-state CPAs are equipped with updated information regarding all laws, rules and regulations of the accounting profession in California. For this reason, the CBA created and maintains a robust website associated with providing information both to consumers and licensees regarding the practice privilege program to serve as an additional safeguard for consumer protection.

The CBA website contains a license lookup feature for out-of-state CPAs that contains all information in the possession of the CBA on such licensees. It also contains a license lookup feature for all OFRs registered in California. A user may also find links to the other board of accountancy jurisdictions and the CPAVerify website so that consumers can find information on CPA licenses throughout the United States.

The following information is statistical data for various web pages on the CBA website associated with the practice privilege program for the 2014 calendar year. The information details the total number of hits to each web page and is not necessarily indicative of unique visitors.

Webpage	2014 Totals
Out-of-State Licensed CPA Search	12,360
Out-of-State Registered Accounting Firms Search	2,043
Practice Privilege Reporting Requirements (Disqualifying Conditions, Pre- & Cessation Notification Requirements)*	2,669
Practice Privilege Handbook	10,368

*This page provides consumers and out-of-state CPAs specific information regarding the events and circumstances that necessitate out-of-state CPAs to: (1) pre-notify the CBA and receive approval prior to exercising a practice privilege, and (2) to cease practicing via a practice privilege, notify the CBA, and await approval to resume practice.

VIII. ACTIVITIES AND ACCOMPLISHMENTS

The following are some of the major activities and accomplishments of the MSG during 2014:

- The MSG held meetings as necessary in order to conduct business and make periodic reports to the CBA. The MSG held three meetings in 2014 as follows:

- March 20, 2014 – Pasadena, CA
- July 23 and 24, 2014 – Sacramento, CA
- November 20, 2014 – Pasadena, CA

Ms. Salazar reported on MSG activities to the CBA at its meetings which followed each MSG meeting.

- The MSG voted to prepare a final report to the CBA to be presented in Summer 2017.
- The MSG adopted a definition of stakeholders, as previously defined in the CBA's 2013-2015 Strategic Plan:

“Stakeholders include consumers, licensees, applicants, and professional organizations and groups that have a direct or indirect stake in the CBA because they can affect or be affected by the CBA’s actions, objectives, and policies.”

- The MSG discussed, and provided its initial considerations on, the consumer protection provisions of BPC sections 5096 and 5096.1. The MSG agreed the consumer protection provisions currently in place are a good start on a multi-year process of ensuring the MSG is doing all it can to protect consumers.
- The MSG identified initial stakeholder objectives and will continue to revise and define additional objectives throughout the duration of the MSG. The initially determined stakeholder objectives are as follows:
 - To help out-of-state licensees know and understand their self-reporting requirements; and
 - To assure the CBA that all states have adequate enforcement.
- The MSG posed the following questions to other state boards of accountancy to determine the volume of enforcement referrals experienced by other state boards of accountancy:
 - In the past five years, how many enforcement notifications or referrals did your board receive from other state boards of accountancy, either directly or through ALD?
 - Of those notifications or referrals, how many resulted in enforcement actions?
 - Of those notifications or referrals, how many remain under investigation?
 - In the past five years, how many matters has your Board notified or referred to other state boards of accountancy, either directly or through ALD?
- The MSG requested that staff ascertain what is being done to educate other governmental organizations which have an interest in the accounting profession, such as the State Controller's Office (SCO), regarding the fact that out-of-state licensees can perform services in California via a practice privilege.

It was determined that through regular contact with the SCO and the Franchise Tax Board, the CBA already communicates significant changes in the law such as practice privilege. Currently, there is a request pending with the SCO that a link to the CBA Licensees webpage be added to the SCO website. The information on the CBA Licensee webpage includes significant information about the practice privilege program.

IX. 2015 ANTICIPATED TOPICS FOR DISCUSSION

The MSG will meet three times in 2015 in conjunction with the March, July and November CBA meetings. It is anticipated the following will be topics presented for discussion before the MSG:

- A state-by-state discussion as to whether allowing individuals from a particular state to practice in this state pursuant to a practice privilege as described in Section 5096, violates the board's duty to protect the public, and provide input on the CBA's Practice Privilege: Preliminary Determinations Report,
- NASBA's upcoming national enforcement guidelines and best practices,
- Further discussion and clarification of stakeholder objectives; and
- Continuing discussion and consideration of the consumer protection provisions of the practice privilege law.

X. CONCLUSION

Throughout 2014, the MSG was hard at work analyzing and conducting thorough analyses of the consumer protection provisions and the new practice privilege law, as well as defining stakeholders and identifying stakeholder objectives. Moving forward into its second year, the MSG will continue to focus on consumer protection as its primary concern as it continues to discuss the practice privilege law, stakeholder objectives and the NASBA national enforcement guidelines. The MSG stands ready to accept any additional charges that the CBA may wish to place upon it.

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CALIFORNIA BOARD OF ACCOUNTANCY



MOBILITY STAKEHOLDER GROUP

ANNUAL REPORT
2015

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I. MESSAGE FROM THE CHAIR

I am pleased to present the California Board of Accountancy (CBA) with the Mobility Stakeholder Group's (MSG) 2015 Annual Report.

The MSG worked diligently throughout 2015 to fulfill its statutory mandate of ensuring the practice privilege law is protecting the consumers of this state. During 2015, the MSG further reviewed the consumer protection provisions of the practice privilege law. In addition, the MSG recommended the CBA find that the National Association of State Boards of Accountancy's (NASBA) Guiding Principles of Enforcement (Enforcement Guidelines) meet or exceed California's enforcement practices. Finally, the MSG recommended the CBA request that NASBA perform the research that will be used to determine the substantial equivalency of other states' enforcement programs to the NASBA Enforcement Guidelines.

As we approach the third year of the MSG, it will focus on the substantial equivalency of the various states' enforcement programs. The MSG will continue considering the consumer protection provisions and discussing and clarifying stakeholder objectives of the practice privilege law.

I am grateful to have had the opportunity to serve as chair of the MSG. I would also like to express my appreciation for the dedication of those serving on the MSG. It has been a pleasure to work on behalf of consumers. Under the leadership of the new Chair, Jose Campos, the MSG will continue to strive to remain on the forefront of consumer protection.

As the past MSG Chair and the new CBA President, I look forward to working with the MSG to ensure the continued success of California's practice privilege program.

Katrina L. Salazar, CPA, CBA President
2015 MSG Chair

II. BACKGROUND

Legislation enacted in 2012 (Stats. 2012, ch. 411 (Senate Bill (SB) 1405)) rewrote the CBA's practice privilege provisions (Article 5.1, Chapter 1, Division 3 of the Business and Professions Code (BPC)), which became effective July 1, 2013 and shall become inoperative on January 1, 2019. The new provisions beginning at section 5096 of the BPC allow individuals, whose principal place of business is outside of California and are licensed in states that have licensing requirements substantially equivalent to California's, to practice in California under a practice privilege conferred by operation of law without providing a notice or paying a fee. Prior to the passage of SB 1405, individuals possessing

out-of-state licenses to practice public accountancy were required to notify the CBA, as well as pay a fee in order to practice public accountancy in California.

BPC section 5096.21(e) creates the MSG and, in addition, states in part:

The group, at its first meeting, shall adopt policies and procedures relative to how it will conduct its business, including but not limited to, policies and procedures addressing periodic reporting of its findings to the board.

Effective July 1, 2013, sections 26 – 35.1 of Title 16, Division 1 of the California Code of Regulations (CBA Regulations) became inoperative, and were simultaneously replaced by new sections 5.5 and 18 – 22 of CBA Regulations.

III. MOBILITY STAKEHOLDER GROUP RESPONSIBILITIES

The MSG derives its authority from BPC section 5096.21(e). The roles and responsibilities of the MSG, as defined by the law and the CBA, are as follows:

- Hold meetings as necessary in order to conduct business,
- Adopt policies and procedures relative to how it will conduct its business, including, but not limited to, policies and procedures addressing periodic reporting of its findings to the board,
- Consider whether the practice privilege provisions are consistent with the CBA's duty to protect the public in accordance with BPC section 5000.1,
- Consider whether the mobility law satisfies the objectives of stakeholders of the accounting profession, including consumers, and
- Prepare an Annual Report to the CBA highlighting its activities.

IV. MOBILITY STAKEHOLDER GROUP MEMBERS

The MSG is comprised of seven members, which consists of members of the CBA, CBA enforcement staff, representatives of the accounting profession, and consumer representatives.

Upon his election as CBA President for 2015, Jose Campos removed himself from the MSG and appointed CBA Member Michael Savoy to take his place.

Early in 2015, the MSG was saddened to learn of the passing of its Vice-Chair, Harold Schultz, certified public accountant (CPA). Mr. Schultz's hard work and dedication to the profession was a mainstay of CBA meetings and the various committees on which he had served, including the MSG. Former CBA Member Donald Driftmier was appointed to the MSG in his place.

For the majority of 2015, the MSG membership consisted of the following members:

Katrina L. Salazar, CPA, Chair and CBA Member
Joseph P. Petito, Esq., Vice-Chair and Accounting Profession Representative
Don Driftmier, CPA, Accounting Profession Representative
Dominic Franzella, CBA Enforcement Division Chief
Edward Howard, Esq., Consumer Representative
Michael Savoy, CPA, CBA Member
Stuart Waldman, Esq., Consumer Representative

V. LEGISLATION AND REGULATIONS

To further enhance consumer protection, the CBA pursued legislative and regulatory changes to the program in 2013 and 2014. Effective January 1, 2014, BPC section 5096(e)(10) was added to Article 5.1 by SB 822 (Stats. 2013, Ch. 319) to require practice privilege holders to notify the CBA of any pending criminal charges, other than minor traffic violations, in any jurisdiction. In 2014, the CBA sought a further change to that same section to clarify that the individual had to be exercising a practice privilege in California before reporting pending criminal charges is required. In addition, SB 1467 (Stats. 2014, Ch. 400) stated that such a report must be made to the CBA in writing within 30 days. These new provisions took effect January 1, 2015.

In 2015, the CBA gained approval of an amendment to CBA Regulations section 19 to create a Practice Privilege Notification of Pending Criminal Charges form. Effective October 1, 2015 this form is used by individuals to report pending criminal charges.

VI. PROGRAM OVERVIEW

If a licensee's principal place of business is located outside California and he or she holds a valid and current license, certificate, or permit to practice public accountancy from another state, he or she may qualify to practice public accountancy in California under a practice privilege, without giving notice or paying a fee, provided one of the following conditions is met:

- They have continually practiced public accountancy as a CPA under a valid license issued by any state for at least four of the last 10 years.
- They hold a valid license, certificate, or permit to practice public accountancy from a state determined by the CBA to be substantially equivalent to the licensure qualifications in California under BPC section 5093.

- They possess education, examination, and experience qualifications which have been determined by the CBA to be substantially equivalent to the licensure qualifications in California.

A licensee is required to notify and receive written permission from the CBA prior to practicing public accountancy in California if, within the seven years immediately preceding the date on which he or she wishes to practice in this state, certain conditions apply as outlined in BPC Section 5096(i). If any of those conditions apply, the licensee must submit a completed notification form and await written permission from the CBA prior to engaging in the practice of public accountancy in California.

If an individual exercises a practice privilege and subsequently acquires any condition disqualifying them from holding a California practice privilege, they must cease practicing immediately and notify the CBA in writing within 15 days of the occurrence of the cessation event using the “Notification of Cessation of Practice Privilege Form” (PP-11(1/13)).

If an individual is exercising a practice privilege in California, they are required to notify the CBA in writing of any pending criminal charges, other than for a minor traffic violation, within 30 days of the date they have knowledge of those charges.

If an individual intends to provide audit or attestation services for an entity headquartered in California, they may only do so through an accounting firm registered with the CBA.

An accounting firm that is authorized to practice public accountancy in another state and that does not have an office in this state must register with the CBA prior to performing attest services for an entity headquartered in California.

To register an out-of-state accounting firm, while there is no fee, an applicant must first complete the “Out-of-State Accounting Firm Registration Form” (PP-13(1/13)). The out-of-state accounting firm registration must be renewed every two years in order for the out-of-state accounting firm to maintain practice rights in California. The out-of-state accounting firm must also notify the CBA of any change of address or change in ownership within 30 days of the change.

VII. STATISTICS

The following is statistical information for the Licensing, Enforcement, and Administration Divisions for the calendar year 2015 as it pertains to the practice privilege program. The information listed on page 5 is categorized into sections detailing Out-of-State Accounting Firm Registration information, customer service and the volume of contact with consumers and licensees, enforcement-

related referrals and investigations, and the CBA’s use of the website to enhance consumer protection.

Licensing Division

The Practice Privilege Unit within the Licensing Division is responsible for two main functions associated with the practice privilege program: (1) processing out-of-state accounting firm registrations and (2) providing customer service in response to telephone calls and e-mails.

Out-of-State Accounting Firm Registration (OFR)

The practice privilege provisions require practice privilege holders providing certain attestation services to California-headquartered entities to do so only through a firm registered with the CBA. These accounting firms must submit a registration form and obtain approval from the CBA prior to providing these services.

Below is the statistical data associated with processing OFRs for the 2015 calendar year.

Out-of-State Firm Registrations	2015 Totals
Total Registration Applications Received	139
Total Registration Applications Approved	122
Total Registration Applications Referred to Enforcement	20

Service to Stakeholders

The Practice Privilege Unit is the primary point of contact associated with the practice privilege program. Providing excellent service to stakeholders while effectively communicating the requirements of California’s practice privilege law is an important part of the efficient functioning of the unit. Below is the statistical data for the total number of telephone calls and e-mails for the 2015 calendar year.

Stakeholder Contact	2015 Totals
Telephone	450
E-mails	454

Enforcement Division

The Enforcement Division is responsible for numerous consumer protection aspects of the practice privilege program, including processing pre-notification and cessation notification forms, reviewing the Securities and Exchange Commission’s (SEC) and Public Company Accounting Oversight Board’s (PCAOB) websites for CPAs that have been disciplined by those entities,

reviewing OFR referrals from the Practice Privilege Unit, and reviewing complaints received against practice privilege holders.

The following is statistical data associated with the various Enforcement Division activities for the 2015 calendar year.

Enforcement Division Activities	2015 Totals
Pre-Notification Forms Received	2
Cessation Notification Forms Received	0
SEC Discipline Identified*	27
PCAOB Discipline Identified*	21
Out-of-State Accounting Firms Referred by Licensing Division for Reported Other Discipline	14
Out-of-State Accounting Firm Registrations Denied	0
Complaints Against Practice Privilege Holders Received	11

*These numbers indicate discipline instituted against **all** licensees and is not limited to California licensees or practice privilege holders.

Administration Division

Website Usage

One of the key components of providing widespread consumer protection is by continuously striving to ensure consumers and out-of-state CPAs are equipped with updated information regarding all laws, rules and regulations of the accounting profession in California. For this reason, the CBA created and maintains a robust website associated with providing information both to consumers and licensees regarding the practice privilege program to serve as an additional safeguard for consumer protection.

The CBA website contains a license lookup feature for out-of-state CPAs that contains all information in the possession of the CBA on such licensees. It also contains a license lookup feature for all OFRs registered in California. A user may also find links to the other board of accountancy jurisdictions and the CPAVerify website so that consumers can find information on CPA licenses throughout the United States.

The following information is statistical data for various web pages on the CBA website associated with the practice privilege program for the 2015 calendar year.

The information details the total number of hits to each web page and is not indicative of unique visitors.

Webpage	2015 Totals
Out-of-State Licensed CPA Search	7,961
Out-of-State Registered Accounting Firms Search	1,658
Practice Privilege Reporting Requirements (Disqualifying Conditions, Pre- & Cessation Notification Requirements)*	3,872
Practice Privilege Handbook	10,161

*This page provides consumers and out-of-state CPAs specific information regarding the events and circumstances that necessitate out-of-state CPAs to: (1) pre-notify the CBA and receive approval prior to exercising a practice privilege, and (2) to cease practicing via a practice privilege, notify the CBA, and await approval to resume practice.

VIII. ACTIVITIES AND ACCOMPLISHMENTS

The following are some of the major activities and accomplishments of the MSG during 2015:

- The MSG held meetings as necessary in order to conduct business and make periodic reports to the CBA. The MSG held four meetings in 2015 as follows:
 - March 19, 2015 – Irvine, CA
 - May 28, 2015 – Los Angeles, CA
 - July 23, 2015 – Sacramento, CA
 - September 17, 2015 – Irvine, CA

Ms. Salazar reported on MSG activities to the CBA at its meetings which followed each MSG meeting.

- The MSG continued reviewing the consumer provisions of the practice privilege law.
- The MSG reviewed the CBA's Practice Privilege Preliminary Determinations Report to the Legislature.
- The MSG recommended a timeline to the CBA for determining whether the licensees of particular states should remain eligible to practice in California under a no notice, no fee practice privilege.

- The MSG recommended the CBA issue a finding that NASBA's Enforcement Guidelines meet or exceed the CBA's own enforcement practices.
- The MSG recommended NASBA to perform the research necessary to determine whether a state's enforcement program is substantially equivalent to NASBA's Enforcement Guidelines.
- The MSG maintained an awareness of NASBA activities and received status reports on the CPAverify website.
- The MSG ascertained that through regular contact with the State Controller's Office and the Franchise Tax Board, the CBA communicates significant changes in the law such as practice privilege.

IX. 2016 ANTICIPATED TOPICS FOR DISCUSSION

The MSG will continue to meet in conjunction with CBA meetings. It is anticipated the following will be topics presented for discussion before the MSG:

- A state-by-state discussion regarding allowing individuals from a particular state to practice in this state pursuant to a practice privilege as described in Section 5096,
- NASBA's Enforcement Guidelines and best practices,
- Further discussion and clarification of stakeholder objectives; and
- Continuing discussion and consideration of the consumer protection provisions of the practice privilege law.

X. CONCLUSION

Throughout 2015, the MSG was hard at work vetting a process by which the CBA can determine whether a state's licensees should be allowed to continue to practice in California under a no notice, no fee practice privilege program. Moving forward into its third year, the MSG will continue to focus on consumer protection as its primary concern as it continues to discuss the practice privilege law, stakeholder objectives and the results of the research being performed by NASBA.

CALIFORNIA BOARD OF ACCOUNTANCY



MOBILITY STAKEHOLDER GROUP

ANNUAL REPORT
2016

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I. MESSAGE FROM THE CHAIR

I am pleased to present the California Board of Accountancy (CBA) with the Mobility Stakeholder Group's (MSG) 2016 Annual Report.

The MSG worked diligently throughout 2016 to fulfill its statutory mandate of ensuring the practice privilege law protects the consumers of this state. During this year, the MSG continued its collaboration with the National Association of State Boards of Accountancy (NASBA) to conduct the research with which the CBA will make its determinations about other states'¹ enforcement practices compared to the NASBA Guiding Principles of Enforcement.

The research conducted by NASBA will provide guidance during the CBA's decision making process, for determining whether other state's enforcement practices are substantially equivalent to California. This determination will provide consumer protection, by requiring licensees from states whose practices are not substantially equivalent, to provide notice and pay a fee prior to exercising a practice privilege in California.

To verify the results of NASBA's findings, the MSG defined an assessment framework, and initiated three rounds of assessments using this framework to evaluate NASBA's findings. Based on the results of these assessments, and the verification of disciplinary information on the Internet, the MSG was satisfied with NASBA's research.

In September 2016, Assembly Bill (AB) 2560, a CBA-sponsored bill, was signed by Governor Jerry Brown. This bill grants the CBA the legislative authority to adopt emergency regulations to expedite the rulemaking process related to the practice privilege program.

As we approach the fourth year of the MSG, we will focus on completing the assessment of other states' enforcement programs and making recommendations to the CBA regarding the findings. The MSG approved 45 states as substantially equivalent, leaving only a few states that will be pending equivalency. The MSG will continue considering the consumer protection provisions of the law while discussing and upholding stakeholder objectives.

I would like to express my appreciation for the dedication of those serving on the MSG and look forward to continuing to ensure the success of California's practice privilege program.

Jose A. Campos, CPA
2016 MSG Chair

¹ "State" when not specifically referring to this State, means any state, territory or insular possession of the United States, or the District of Columbia. (*California Business and Professions Code § 5032.*)

II. BACKGROUND

Legislation enacted in 2012, (Stats. 2012, Ch. 411 (Senate Bill (SB) 1405)) rewrote the CBA's practice privilege provisions (Article 5.1, Chapter 1, Division 3 of the Business and Professions Code (BPC)), which became effective July 1, 2013 and shall become inoperative on January 1, 2019. The new provisions beginning at section 5096 of the BPC allow individuals, whose principal place of business is outside of California and are licensed in states that have licensing requirements substantially equivalent to California's, to practice in California under a practice privilege conferred by operation of law without providing a notice or paying a fee. Prior to the passage of SB 1405, individuals possessing out-of-state licenses to practice public accountancy were required to notify the CBA, and pay a fee prior to practicing public accountancy in California.

BPC section 5096.21(e) creates the MSG and, in addition, states in relevant part:

The group, at its first meeting, shall adopt policies and procedures relative to how it will conduct its business, including but not limited to, policies and procedures addressing periodic reporting of its findings to the board.

Effective July 1, 2013, sections 26 – 35.1 of Title 16, Division 1 of the California Code of Regulations (CBA Regulations) became inoperative, and were simultaneously replaced by new sections 5.5 and 18 – 22 of CBA Regulations.

SB 1405 requires the CBA to determine whether allowing licensees of a particular state to practice in California would violate the CBA's duty to protect the public. If this determination shows the public is at risk, the licensees of those particular states would, following a rulemaking by the CBA, revert back to using the prior practice privilege program with its notice and fee provisions.

These determinations are to be made on and after January 1, 2016, and on an ongoing basis. In making the determinations, the CBA is required to consider three factors:

1. Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.
2. Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet website to obtain information that

was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.

3. Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

III. MOBILITY STAKEHOLDER GROUP RESPONSIBILITIES

The MSG derives its authority from BPC section 5096.21(e). The roles and responsibilities of the MSG, as defined by the law and the CBA, are as follows:

- Hold meetings as necessary in order to conduct business;
- Adopt policies and procedures relative to how it will conduct its business, including, but not limited to, policies and procedures addressing periodic reporting of its findings to the board;
- Consider whether the practice privilege provisions are consistent with the CBA's duty to protect the public in accordance with BPC section 5000.1;
- Consider whether the mobility law satisfies the objectives of stakeholders of the accounting profession, including consumers;
- Prepare an Annual Report to the CBA highlighting its activities.

IV. MOBILITY STAKEHOLDER GROUP MEMBERS

The MSG is comprised of seven members, which consists of members of the CBA, CBA enforcement staff, representatives of the accounting profession, and consumer representatives.

In 2016, the MSG membership consisted of the following members:

Jose A. Campos, CPA, Chair and CBA Member
Joseph P. Petito, Esq., Vice-Chair and accounting profession representative
Don Driftmier, CPA, accounting profession representative
Dominic Franzella, CBA Enforcement Division Chief
Edward Howard, Esq., consumer representative
Michael M. Savoy, CPA, CBA Member
Stuart Waldman, Esq., consumer representative

V. LEGISLATION

To further enhance consumer protection, the CBA sponsored AB 2560 (Stats 2016, Ch. 302), which grants the CBA the legislative authority to adopt emergency regulations to expedite the rulemaking process related to participation in the no-notice, no-fee, practice privilege program and require out-of-state individuals licensed from a particular state, as a condition to

exercising a practice privilege in California, to file the notification form and pay the applicable fees required under the prior practice privilege law.

VI. PROGRAM OVERVIEW

If a licensee's principal place of business is located outside California and he or she holds a valid and current license, certificate, or permit to practice public accountancy from another state, he or she may qualify to practice public accountancy in California under a practice privilege, without giving notice or paying a fee, provided one of the following conditions is met:

- They have continually practiced public accountancy as a CPA under a valid license issued by any state for at least four of the last 10 years.
- They hold a valid license, certificate, or permit to practice public accountancy from a state determined by the CBA to be substantially equivalent to the licensure qualifications in California under BPC section 5093.
- They possess education, examination, and experience qualifications which have been determined by the CBA to be substantially equivalent to the licensure qualifications in California.

A licensee is required to notify and receive written permission from the CBA prior to practicing public accountancy in California if, within the seven years immediately preceding the date on which he or she wishes to practice in this state, certain conditions apply, as outlined in BPC Section 5096(i).

If any of those conditions apply, the licensee must submit a completed "Pre-Notification Form" and await written permission from the CBA prior to engaging in the practice of public accountancy in California.

If an individual exercises a practice privilege and subsequently acquires any condition disqualifying them from holding a California practice privilege, they must cease practicing immediately and notify the CBA in writing within 15 days of the occurrence of the cessation event using the "Notification of Cessation of Practice Privilege Form."

If an individual is exercising a practice privilege in California, they are required to notify the CBA in writing of any pending criminal charges, other than for a minor traffic violation, within 30 days of the date they have knowledge of those charges.

If an individual intends to provide audit or attestation services for an entity headquartered in California, they may only do so through an accounting firm registered with the CBA.

An accounting firm that is authorized to practice public accountancy in another state and does not have an office in this state must register with the CBA prior to performing attest services for an entity headquartered in California.

Out-of-State Accounting Firm Registration (OFR)

Practice privilege holders providing certain attestation services to California-headquartered entities must do so only through a firm registered with the CBA. These accounting firms must submit the “Out-of-State Accounting Firm Registration Form” and obtain approval from the CBA prior to providing these services. There is no fee, but the OFR must be renewed every two years in order for the out-of-state accounting firm to maintain practice rights in California. The out-of-state accounting firm must also notify the CBA of any change of address or change in ownership within 30 days of the change.

VII. STATISTICS

The following is statistical information for the Licensing, Enforcement, and Administration Divisions for the calendar year 2016 as it pertains to the practice privilege program. The information listed is categorized into sections detailing OFR information, customer service, and the volume of contact with consumers and licensees, enforcement-related referrals and investigations, and the CBA’s use of the website to enhance consumer protection.

Licensing Division

The Licensing Division is responsible for two main functions associated with the practice privilege program: (1) processing OFR forms and (2) providing customer service in response to telephone calls and emails.

Below is the statistical data associated with processing OFR applications for the 2016 calendar year. There were some unprocessed applications from 2015 reflected in the total approved applications for 2016, therefore the number is higher than the total number of received applications.

Out-of-State Firm Registrations	2016 Totals
Total Registration Applications Received	98
Total Registration Applications Approved	105
Total Registration Applications Renewed	113

Service to Stakeholders

The Licensing Division serves as the primary point of contact associated with the practice privilege program. Providing excellent service to stakeholders while effectively communicating the requirements of California’s practice

privilege law is critical. The next table provides the statistical data for the total number of telephone calls and e-mails for the 2016 calendar year.

Stakeholder Contact	2016 Totals
Telephone	509 ²
E-mails	554

Enforcement Division

The Enforcement Division is responsible for numerous consumer protection aspects of the practice privilege program, including processing pre-notification and cessation notification forms, reviewing the Securities and Exchange Commission’s (SEC) and Public Company Accounting Oversight Board’s (PCAOB) websites for CPAs that have been disciplined by those entities³, reviewing OFR referrals from the Licensing Division, and reviewing complaints received against practice privilege holders.

The following is statistical data associated with the various Enforcement Division activities for the 2016 calendar year.

Enforcement Division Activities	2016 Totals
Pre-Notification Forms Received	2
Cessation Notification Forms Received	0
SEC Discipline Identified	36
PCAOB Discipline Identified	17
Out-of-State Accounting Firms Referred by Licensing Division	17
Out-of-State Accounting Firm Registrations Denied	1
Complaints Against Practice Privilege Holders Received	11

² Due to technical difficulties with the CBA phone system, telephone call statistics are only available through July 31, 2016. Therefore, the number provided is an estimate.

³ According to BPC 5096.4(a), the CBA shall consult the PCAOB and the SEC at least once every six months to identify out-of-state licensees who may have disqualifying conditions or who may be obliged to cease practice, and shall disclose, pursuant to this subdivision, whether those out-of-state licensees are lawfully permitted to exercise the privilege.

Administration Division

Website Usage

One of the key components of providing widespread consumer protection is by continuously striving to ensure consumers and out-of-state CPAs are equipped with updated information regarding all laws, rules, and regulations of the accounting profession in California. For this reason, the CBA created and maintains a robust website that provides information to consumers and licensees regarding the practice privilege program.

The CBA website contains a license lookup feature for out-of-state CPAs that includes all information in the possession of the CBA on such licensees. It also contains a license lookup feature for all OFRs registered in California. A user may find information on CPA licensees throughout the United States on other board of accountancy states' websites and the CPAverify website, which may be accessed through the CBA website.

The following reflects statistical data for various CBA webpages associated with the practice privilege program for the 2016 calendar year. This table details the total number of hits to each webpage and is not indicative of unique visitors.

Webpage	2016 Totals*
Out-of-State Licensed CPA Search	6,630
Out-of-State Registered Accounting Firms Search	2,060
Practice Privilege Reporting Requirements (Disqualifying)	1,633
Practice Privilege Handbook	2,155

*Associated with the new CBA website launched in May 2016, certain usage data is unavailable. The statistics provided are an estimate based upon the available data.

VIII. ACTIVITIES AND ACCOMPLISHMENTS

The following are some of the major activities and accomplishments of the MSG during 2016:

- The MSG held meetings as necessary to conduct business and make periodic reports to the CBA. The MSG held six meetings in 2016 as follows:

- January 21, 2016 – Irvine, CA
- March 17, 2016 – Anaheim, CA

- May 19, 2016 – Los Angeles, CA
- July 21, 2016 – Irvine, CA
- September 15, 2016 – Irvine, CA
- November 17, 2016 – Sacramento, CA

Mr. Campos reported on MSG activities to the CBA at its meetings which followed each MSG meeting. The CBA approved all MSG recommendations made throughout the year.

- In January, the MSG reviewed the 27 states identified by NASBA as substantially equivalent to NASBA's Guiding Principles of Enforcement. NASBA deemed 10 additional states as substantially equivalent, with the exception of making licensee disciplinary information available online. The remaining 18 states had yet to be identified as substantially equivalent.

NASBA's findings were derived from information gathered from two surveys with each state board and multiple follow-up communications with each board's staff. To ensure candid discussions between NASBA and other state board's enforcement practices and procedures, the data gathered by NASBA remained confidential.

- In March, the MSG discussed NASBA's updated assessment, identifying 43 states as substantially equivalent, which includes 14 states that lacked the required Internet disclosure of licensee disciplinary information. The substantial equivalency of 12 states was not yet determined.

The MSG directed CBA staff to review a representative sample of the findings made by NASBA about the various states. When selecting states to review, the MSG suggested staff consider the size of a state's licensee population, the prior number of Practice Privilege holders, and its proximity to California. The MSG recommended that CBA staff first conduct reviews of NASBA's assessments of Arizona and Washington. In addition, the MSG revised the State Information Sheet for staff to use as a guideline when assessing NASBA's findings. The MSG also directed staff to independently review the Internet disclosure portion of the findings concurrently with the assessments.

State Assessments

In April, CBA and NASBA staff met to conduct the assessment of Arizona and Washington. NASBA staff discussed the process, and its results, to review the enforcement practices of all states, including Arizona and Washington.

The Arizona and Washington boards of accountancy provided NASBA with information about their processes including intake, review,

prioritization, investigation, settlement, the presence or lack of Internet disclosure of licensee disciplinary information, formal hearings, and resolution for both administrative and practice complaints. CBA staff received descriptions of the enforcement practices in the summaries provided by NASBA and was provided the opportunity to review raw survey data. Due to the confidentiality requirements of the other state boards of accountancy, CBA staff did not retain or make copies of any raw survey responses.

- In May, CBA staff presented the results and methodology of its assessment of Arizona and Washington and informed the MSG that staff was satisfied with NASBA's findings. The MSG directed staff to assess the NASBA findings of five additional states (Colorado, Illinois, New York, Oregon, and Texas) following the same methods used in Arizona and Washington assessments, and continue to evaluate the undetermined states.

The MSG determined that evaluating these seven states was an appropriate sample size (15 percent of the 43 states identified by NASBA as substantially equivalent, including those lacking the required Internet disciplinary disclosures).

State Assessments

In June, CBA and NASBA staff met to conduct the assessment of NASBA's findings for the states of Colorado, Illinois, New York, Oregon, and Texas. CBA staff followed the previously established assessment methodology.

- In July, CBA staff presented the results of the assessments of Colorado, Illinois, New York, Oregon, and Texas and informed the MSG that staff was satisfied with NASBA's findings. CBA staff indicated that NASBA identified 36 states as substantially equivalent, 10 states as substantially equivalent (but lacked required Internet disciplinary disclosures), and nine states were undetermined.

The MSG recommended that the CBA approve 36 states identified by NASBA as substantially equivalent and directed CBA staff to continue monitoring the remaining states.

- In September, the MSG received an update that NASBA identified 44 states as substantially equivalent with the required Internet disciplinary disclosures. NASBA identified 11 other states as substantially equivalent, but lacked the required Internet disciplinary disclosure. Therefore, the status of all states was determined. The MSG recommended that CBA staff conduct assessments of Utah and Georgia using the previously established assessment methodology.

The MSG reviewed other states' mobility provisions and found that the vast majority of states rely on some form of substantial equivalency to the requirements of licensure outlined in the Uniform Accountancy Act.

- In November, CBA staff reported that NASBA determined that 45 states were substantially equivalent with the required Internet disciplinary disclosures. NASBA identified 10 other states as substantially equivalent, but lacked the required Internet disciplinary disclosures. Because NASBA determined all states as substantially equivalent (with 10 still lacking the required Internet disclosures) and no additional in-depth analysis of the states necessary, the MSG voted to revise their timeline pursuant to 5096.21(a)(1).

CBA staff presented the results of the assessments of Utah and Georgia and informed the MSG that staff was satisfied with NASBA's findings. CBA staff followed the previously established assessment methodology.

The MSG recommended that the CBA approve an additional nine states (for a total of 45) as substantially equivalent and directed CBA staff to continue monitoring the remaining 10 states that are substantially equivalent, but lack required disciplinary Internet disclosures.

- Throughout the year, the MSG monitored NASBA activities and received status reports on the CPAverify website.

IX. 2017 ANTICIPATED TOPICS FOR DISCUSSION

The MSG will continue to meet in conjunction with CBA meetings. It is anticipated the following topics will be presented for discussion before the MSG:

- Concluding the assessment of other states' enforcement programs, specifically whether the remaining ten states provide the required Internet disciplinary disclosures;
- Finalizing decisions on states not yet identified as substantially equivalent;
- Expediting the rulemaking process related to participation in the no-notice, no-fee, practice privilege program;
- Submitting the MSG final report to the CBA; and
- Developing a preliminary draft of the CBA's report to the Legislature pursuant to BPC section 5096.21(f) that explains in detail:
 - How the CBA implemented the program and whether implementation is complete;

- Whether, in the opinion of the CBA, the current program offers more, less, or equivalent consumer protection than the previous program; and
- How other state boards of accountancy addressed enforcement referrals from the CBA, including the timeframe and outcome of any investigations.

X. CONCLUSION

As we approach the fourth year of the MSG, we will focus on completing the assessment of other states' enforcement programs and making recommendations to the CBA regarding the findings. The MSG approved 45 states as substantially equivalent, leaving only a few states that will be pending equivalency. The MSG will continue considering the consumer protection provisions of the law while discussing and upholding stakeholder objectives.

CALIFORNIA BOARD OF ACCOUNTANCY



MOBILITY STAKEHOLDER GROUP

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I. MESSAGE FROM THE CHAIR

I am pleased to present the Mobility Stakeholder Group's (MSG) Annual Report to the California Board of Accountancy (CBA). This report discusses the totality of the MSG's accomplishments to date.

Since 2014, the MSG has worked diligently to fulfill its statutory mandate to ensure California's current practice privilege laws protect consumers of public accounting services. With the assistance of the National Association of State Boards of Accountancy (NASBA), we have evaluated the enforcement practices of each state¹ board of accountancy and considered how consumers and other stakeholders are impacted by this program. The research conducted by NASBA provides valuable insight into the specific enforcement practices and policies of each state.

After carefully considering our body of work over the past three years, I believe that the current mobility program provides superior consumer protection and benefits, relative to the previous practice privilege program. As will be discussed further in the Conclusion section of this report, the current program has triggered positive changes in many other states, to the great benefit of consumers of public accounting services, not just in California, but nationwide.

One such benefit to consumers, is the accessibility to the disciplinary history of out-of-state licensees. The CBA website contains a license lookup feature for out-of-state CPAs that includes all publicly disclosable information in the possession of the CBA on such licensees. A consumer may find information on out-of-state licensees on other state board of accountancy websites and the CPAverify website, which may be accessed through the CBA website.

As we conclude this chapter of the MSG's work, all 55 states have been determined to be substantially equivalent to NASBA's Guiding Principles of Enforcement.

I would like to express my appreciation to the MSG and CBA members, including the staff of the CBA and NASBA, for their dedicated work over the past few years. It has been a pleasure to serve as the MSG Chairman during this exciting time and I look forward to continuing our work to protect consumers.

Jose A. Campos, CPA
MSG Chair

¹ "State" when not specifically referring to this State, means any state, territory or insular possession of the United States, or the District of Columbia. (*California Business and Professions Code § 5032.*)

II. BACKGROUND

Legislation enacted in 2012, (Stats. 2012, Ch. 411 (Senate Bill (SB) 1405)) rewrote the CBA's practice privilege provisions (Article 5.1, Chapter 1, Division 3 of the Business and Professions Code (BPC)), which became effective July 1, 2013 and shall become inoperative on January 1, 2019. The new provisions beginning at section 5096 of the BPC allow individuals, whose principal place of business is outside of California and are licensed in states that have licensing requirements substantially equivalent to California's, to practice in California under a practice privilege conferred by operation of law without providing notice or paying a fee. Prior to the passage of SB 1405, individuals possessing out-of-state licenses to practice public accountancy were required to notify the CBA, and pay a fee prior to practicing public accountancy in California.

BPC section 5096.21(e) creates the MSG and states in relevant part:

The group, at its first meeting, shall adopt policies and procedures relative to how it will conduct its business, including but not limited to, policies and procedures addressing periodic reporting of its findings to the board.

Effective July 1, 2013, Title 16, Division 1 of the California Code of Regulations (CBA Regulations sections 26-35.1) became inoperative, and were simultaneously replaced by new sections 5.5 and 18 – 22.

A component of SB 1405 requires the CBA to determine whether allowing licensees of a particular state to practice public accounting in California would violate the CBA's duty to protect the public. If this determination shows the public is at risk, the licensees of those particular states would, following a rulemaking by the CBA, revert back to the prior practice privilege program with its notice and fee provisions.

These determinations are to be made on and after January 1, 2016, and on an ongoing basis. In making those determinations, the CBA is required to consider three factors:

1. Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.
2. Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet website to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.

3. Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

III. MOBILITY STAKEHOLDER GROUP RESPONSIBILITIES

The MSG derives its authority from BPC section 5096.21(e). The roles and responsibilities of the MSG, as defined by law and the CBA, are as follows:

- Hold meetings as necessary in order to conduct business;
- Adopt policies and procedures relative to how it will conduct its business, including, but not limited to, policies and procedures addressing periodic reporting of its findings to the board;
- Consider whether the practice privilege provisions are consistent with the CBA's duty to protect the public in accordance with BPC section 5000.1;
- Consider whether the mobility law satisfies the objectives of stakeholders of the accounting profession, including consumers;
- Prepare an annual report to the CBA highlighting its activities.

IV. MOBILITY STAKEHOLDER GROUP MEMBERS

The MSG is comprised of seven members, which consists of members of the CBA, CBA enforcement staff, representatives of the accounting profession, and consumer representatives.

In 2014, then-President of the CBA Michael M. Savoy, CPA appointed the seven members of the MSG, including CBA member Katrina L. Salazar, CPA as Chair, and Harold S. Schultz, CPA as Vice-Chair.

2014 Membership

Katrina L. Salazar, CPA, Chair and CBA Member
Harold S. Schultz, CPA, Vice-Chair and Accounting Profession Representative
Jose A. Campos, CPA and CBA Member
Edward Howard, Esq., Consumer Representative
Rafael Ixta, CBA Enforcement Division Chief
Joseph P. Petito, Esq., Accounting Profession Representative
Stuart Waldman, Esq., Consumer Representative

Upon his election as CBA President for 2015, Mr. Campos removed himself from the MSG and appointed CBA Member Michael M. Savoy, CPA, to take his place.

Early in 2015, the MSG was saddened to learn of the passing of its Vice-Chair, Mr. Schultz. Mr. Schultz's hard work and dedication to the profession was a mainstay of CBA meetings and the various committees on which he had served, including the MSG. Former CBA Member Donald Driftmier, CPA, was appointed to the MSG in his place.

2015 Membership

Katrina L. Salazar, CPA, Chair and CBA Member
Joseph P. Petito, Esq., Vice-Chair and Accounting Profession Representative
Donald Driftmier, CPA, Accounting Profession Representative
Dominic Franzella, CBA Enforcement Division Chief
Edward Howard, Esq., Consumer Representative
Michael M. Savoy, CPA, CBA Member
Stuart Waldman, Esq., Consumer Representative

Upon her election as CBA President for 2016, Ms. Salazar removed herself from the MSG and appointed CBA Member Jose A. Campos, CPA to take her place as the MSG Chair.

2016 Membership

Jose A. Campos, CPA, Chair and CBA Member
Joseph P. Petito, Esq., Vice-Chair and Accounting Profession Representative
Donald Driftmier, CPA, Accounting Profession Representative
Dominic Franzella, CBA Enforcement Division Chief
Edward Howard, Esq., Consumer Representative
Michael M. Savoy, CPA, CBA Member
Stuart Waldman, Esq., Consumer Representative

2017 Membership

Jose A. Campos, CPA, Chair and CBA Member
Joseph P. Petito, Esq., Vice-Chair and Accounting Profession Representative
Donald Driftmier, CPA, Accounting Profession Representative
Dominic Franzella, CBA Enforcement Division Chief
Karriann Farrell Hinds, Esq., CBA Member
Edward Howard, Esq., Consumer Representative
Stuart Waldman, Esq., Consumer Representative

V. LEGISLATION AND REGULATION CHANGES

In 2014 and 2015, the CBA proposed and gained approval from the Office of Administrative Law to amend CBA Regulations section 19 to create a Practice Privilege Notification of Pending Criminal Charges form. This form will be used by individuals to report pending criminal charges.

To further enhance consumer protection, the CBA sponsored Assembly Bill 2560 (Chapter 302 of 2016 Statutes), which grants the CBA the authority to adopt emergency regulations to expedite the rulemaking process related to participation in the no-notice, no-fee, practice privilege program and require out-of-state individuals licensed from a particular state, as a condition to exercise a practice privilege in California, to file the notification form and pay the applicable fees required under the prior practice privilege law. As the normal rulemaking process takes between 12 to 18 months to complete, having

emergency rulemaking authority will expedite the process and better protect consumers.

On February 17, 2017, Senator Cathleen Galgiani introduced Senate Bill (SB) 795 which would remove the January 1, 2019 repeal date of the CBA's practice privilege statute, thereby making the CBA's no notice, no fee, practice privilege program permanent. SB 795 is a two-year bill, to allow time for the presentation of the CBA's report to the Legislature, pursuant to BPC 5096.21(a).

On April 17, 2017, Senator Jerry Hill, Chairman of the Senate Business, Professions, and Economic Development Committee, amended SB 547 to grant the CBA authority to quickly extend or remove the inoperative dates of the CBA's practice privilege regulations through the rulemaking process described in Title 1, Section 100 of the California Code of Regulations.

VI. PROGRAM OVERVIEW

If a licensee's principal place of business is located outside California and he or she holds a valid and current license, certificate, or permit to practice public accountancy from another state, he or she may qualify to practice public accountancy in California under a practice privilege, without giving notice or paying a fee, provided one of the following conditions is met:

- They have continually practiced public accountancy as a CPA under a valid license issued by any state for at least four of the last 10 years.
- They hold a valid license, certificate, or permit to practice public accountancy from a state determined by the CBA to be substantially equivalent to the licensure qualifications in California under BPC section 5093.
- They possess education, examination, and experience qualifications which have been determined by the CBA to be substantially equivalent to the licensure qualifications in California.

A licensee is required to notify and receive written permission from the CBA prior to practicing public accountancy in California if, within the seven years immediately preceding the date on which he or she wishes to practice in this state, certain conditions apply, as outlined in BPC Section 5096(i).

If any of those conditions apply, the licensee must submit a completed "Pre-Notification Form" and await written permission from the CBA prior to engaging in the practice of public accountancy in California.

If an individual exercises a practice privilege and subsequently acquires any condition disqualifying them from holding a California practice privilege, they must cease practicing immediately and notify the CBA in writing within 15 days

of the occurrence of the cessation event using the “Notification of Cessation of Practice Privilege Form.”

If an individual is exercising a practice privilege in California, they are required to notify the CBA in writing of any pending criminal charges, other than for a minor traffic violation, within 30 days of the date they have knowledge of those charges.

If an individual intends to provide audit or attestation services for an entity headquartered in California, they may only do so through an accounting firm registered with the CBA.

An accounting firm that is authorized to practice public accountancy in another state and does not have an office in this state must register with the CBA prior to performing certain services for an entity headquartered in California.

Out-of-State Accounting Firm Registration (OFR)

Practice privilege holders providing certain attestation services to California-headquartered entities must do so only through a firm registered with the CBA. These accounting firms must submit the “Out-of-State Accounting Firm Registration Form” and obtain approval from the CBA prior to providing these services. There is no fee, but the OFR must be renewed every two years in order for the out-of-state accounting firm to maintain practice rights in California. The out-of-state accounting firm must also notify the CBA of any change of address or ownership within 30 days of the change.

VII. STATISTICS

The following is statistical information for the Licensing, Enforcement, and Administration Divisions since the MSG’s inception, as it pertains to the practice privilege program. The information listed is categorized into sections detailing OFR information, customer service and the volume of contact with consumers and licensees, enforcement-related activities, and the CBA’s use of the website to enhance consumer protection.

Licensing Division

The Licensing Division is responsible for two main functions associated with the practice privilege program: (1) processing OFR forms and (2) providing customer service in response to telephone calls and emails.

Below is the statistical data associated with processing OFR forms.

Out-of-State Firm Registrations	2014 Totals	2015 Totals	2016 Totals	2017² Totals
Total Registration Forms Received	300	139	98	38
Total Registration Forms Approved	280	122	105	33
Total Registration Forms Renewed	10	20	113	78

Service to Stakeholders

The Licensing Division serves as the primary point of contact associated with the practice privilege program. Providing excellent service to stakeholders while effectively communicating the requirements of California’s practice privilege law is critical. The next table provides the statistical data for the total number of telephone calls and e-mails.

Stakeholder Contact	2014 Totals	2015 Totals	2016 Totals	2017 Totals³
Telephone	529	450	509 ⁴	120 ⁵
E-mails	401	454	554	260

Enforcement Division

The Enforcement Division is responsible for numerous consumer protection aspects of the practice privilege program, including processing pre-notification and cessation notification forms, reviewing the Securities and Exchange Commission’s (SEC) and Public Company Accounting Oversight Board’s (PCAOB) websites for CPAs that have been disciplined by those entities⁶, reviewing OFR referrals from the Licensing Division, and reviewing complaints received against practice privilege holders.

The following is statistical data associated with the various Enforcement Division activities.

² Data From January 1, 2017 to July 31, 2017.

³ Data From January 1, 2017 to July 31, 2017.

⁴ Due to technical difficulties with the CBA phone system, telephone call statistics are only available through July 31, 2016. Therefore, the number provided is an estimate.

⁵ Due to technical difficulties with the CBA phone system, telephone call statistics are available starting May 1, 2017.

⁶ According to BPC 5096.4(a), the CBA shall consult the PCAOB and the SEC at least once every six months to identify out-of-state licensees who may have disqualifying conditions or who may be obliged to cease practice, and shall disclose, pursuant to this subdivision, whether those out-of-state licensees are lawfully permitted to exercise the privilege.

Enforcement Division Activities	2014 Totals	2015 Totals	2016 Totals	2017 Totals⁷
Pre-Notification Forms Received	1	2	2	0
Cessation Notification Forms Received	0	0	0	0
SEC Discipline Identified	33	27	36	8
PCAOB Discipline Identified	14	21	17	13
Out-of-State Accounting Firms Referred by Licensing Division Reported Other Discipline	10	14	17	12
Out-of-State Accounting Firm Registrations Denied	1	0	1	0
Complaints Against Practice Privilege Holders Received	7	11	11	0

Administration Division

Website Usage

The CBA promotes consumer protection by striving to ensure consumers and out-of-state CPAs are equipped with updated information regarding the laws, rules, and regulations of the accounting profession in California. For this reason, the CBA created and maintains a robust website that provides information to consumers and licensees regarding the practice privilege program.

The CBA website contains a license lookup feature for out-of-state CPAs that includes all publicly disclosable information in the possession of the CBA on such licensees. It also contains a license lookup feature for all OFRs registered in California. A user may find information on out-of-state licensees on other state board of accountancy websites and the CPAverify website, which may be accessed through the CBA website.

The following reflects statistical data for various CBA webpages associated with the practice privilege program.

⁷ Data from January 1, 2017 to July 31, 2017.

This table details the total number of hits to each webpage and is not indicative of unique visitors.

Webpage	2014 Totals	2015 Totals	2016 Totals*	2017 Totals ⁸
Out-of-State Licensed CPA	12,360	7,961	6,630	3,463
Out-of-State Registered Firms	2,043	1,658	2,060	1,383
Practice Privilege Reporting	2,669	3,872	1,633	981
Practice Privilege Handbook	10,368	10,161	2,155	856

*Associated with the new CBA website launched in May 2016, certain usage data is unavailable. The statistics provided are an estimate based upon the available data.

VIII. ACTIVITIES AND ACCOMPLISHMENTS

The following are some of the major activities and accomplishments of the MSG during 2014:

- The MSG adopted a definition of stakeholders, as previously defined in the CBA’s 2013-2015 Strategic Plan:

“Stakeholders include consumers, licensees, applicants, and professional organizations and groups that have a direct or indirect stake in the CBA because they can affect or be affected by the CBA’s actions, objectives, and policies.”

The following are some of the major activities and accomplishments of the MSG during 2015:

- The MSG continued reviewing the consumer provisions of the practice privilege law.
- The MSG reviewed the CBA’s Practice Privilege Preliminary Determinations Report to the Legislature.
- The MSG recommended the CBA issue a finding that NASBA’s Enforcement Guidelines meet or exceed the CBA’s own enforcement practices.

⁸ Data from January 1, 2017 to July 31, 2017.

The following are some of the major activities and accomplishments of the MSG during 2016:

- In January, the MSG reviewed the 27 states identified by NASBA as substantially equivalent to NASBA's Guiding Principles of Enforcement. NASBA deemed 10 additional states as substantially equivalent, with the exception of making licensee disciplinary information available online. The remaining 18 states had yet to be identified as substantially equivalent.

NASBA's findings were derived from information gathered from two surveys with each state board and multiple follow-up communications with each board's staff. To ensure candid discussions between NASBA and other state board's enforcement practices and procedures, the data gathered by NASBA remained confidential.

- In March, the MSG discussed NASBA's updated assessment, identifying 43 states as substantially equivalent, which includes 14 states that lacked the required Internet disclosure of licensee disciplinary information. The substantial equivalency of 12 states was not yet determined.

The MSG directed CBA staff to review a representative sample of the findings made by NASBA about the various states. When selecting states to review, the MSG suggested staff consider the size of a state's licensee population, the prior number of Practice Privilege holders, and its proximity to California. The MSG recommended that CBA staff first conduct reviews of NASBA's assessments of Arizona and Washington. In addition, the MSG revised the State Information Sheet for staff to use as a guideline when assessing NASBA's findings. The MSG also directed staff to independently review the Internet disclosure portion of the findings concurrently with the assessments.

State Assessments

In April, CBA and NASBA staff met to conduct the assessment of Arizona and Washington. NASBA staff discussed the process, and its results, to review the enforcement practices of all states, including Arizona and Washington.

The Arizona and Washington boards of accountancy provided NASBA with information about their processes including intake, review, prioritization, investigation, settlement, the presence or lack of Internet disclosure of licensee disciplinary information, formal hearings, and resolution for both administrative and practice complaints. CBA staff received descriptions of the enforcement practices in the summaries provided by NASBA and was provided the opportunity to review raw survey data. Due to the confidentiality requirements of the other state

boards of accountancy, CBA staff did not retain or make copies of any raw survey responses.

- In May, CBA staff presented the results and methodology of its assessment of Arizona and Washington and informed the MSG that staff was satisfied with NASBA's findings. The MSG directed staff to assess the NASBA findings of five additional states (Colorado, Illinois, New York, Oregon, and Texas) following the same methods used in Arizona and Washington assessments, and continue to evaluate the undetermined states.

The MSG determined that evaluating these seven states was an appropriate sample size (15 percent of the 43 states identified by NASBA as substantially equivalent, including those lacking the required Internet disciplinary disclosures).

State Assessments

In June, CBA and NASBA staff met to conduct the assessment of NASBA's findings for the states of Colorado, Illinois, New York, Oregon, and Texas. CBA staff followed the previously established assessment methodology.

- In July, CBA staff presented the results of the assessments of Colorado, Illinois, New York, Oregon, and Texas and informed the MSG that staff was satisfied with NASBA's findings. CBA staff indicated that NASBA identified 36 states as substantially equivalent, 10 states as substantially equivalent (but lacked required Internet disciplinary disclosures), and nine states were undetermined.

The MSG recommended that the CBA approve 36 states identified by NASBA as substantially equivalent and directed CBA staff to continue monitoring the remaining states.

- In September, the MSG received an update that NASBA identified 44 states as substantially equivalent with the required Internet disciplinary disclosures. NASBA identified 11 other states as substantially equivalent, but lacked the required Internet disciplinary disclosure. Therefore, the status of all states was determined. The MSG recommended that CBA staff conduct assessments of Utah and Georgia using the previously established assessment methodology.

The MSG reviewed other states' mobility provisions and found that the vast majority of states rely on some form of substantial equivalency to the requirements of licensure outlined in the Uniform Accountancy Act.

- In November, CBA staff reported that NASBA determined that 45 states were substantially equivalent with the required Internet disciplinary disclosures. NASBA identified 10 other states as substantially equivalent, but lacked the required Internet disciplinary disclosures. Because NASBA determined all states as substantially equivalent (with 10 still lacking the required Internet disclosures) and no additional in-depth analysis of the states necessary, the MSG voted to revise their timeline pursuant to 5096.21(a)(1).

CBA staff presented the results of the assessments of Utah and Georgia and informed the MSG that staff was satisfied with NASBA's findings. CBA staff followed the previously established assessment methodology.

The MSG recommended that the CBA approve an additional nine states (for a total of 45) as substantially equivalent and directed CBA staff to continue monitoring the remaining 10 states that are substantially equivalent, but lack required Internet disciplinary disclosures.

- Throughout the year, the MSG monitored NASBA activities and received status reports on the CPAverify website.

The following are some of the major activities and accomplishments of the MSG during 2017:

- In January, the MSG recommended that the CBA approve Alaska, Delaware, District of Columbia, Georgia, Maine, Mississippi, New Mexico, Utah, and West Virginia to be substantially equivalent to NASBA's Guiding Principles of Enforcement.
- In March, the MSG adopted a new timeline for activities regarding determinations to be made for out-of-state practitioners pursuant to BPC 5096.21. The two changes in the timeline were the removal of references to Phase II⁹, as all states are substantially equivalent to NASBA's Guiding Principles of Enforcement, with a few states left to add Internet disciplinary disclosure. The second change in the timeline was to reflect the recent authority the CBA obtained to initiate an emergency rulemaking to remove states from the no-notice, no-fee practice privilege program.
- In May, the MSG received an update from NASBA indicating that only three jurisdictions (Alabama, Puerto Rico, and Virginia) were lacking the required Internet disciplinary disclosure.

⁹ If a state was not deemed substantially equivalent, CBA staff would have to conduct a state-by-state evaluation based on the requirements set forth in BPC section 5096.21(b).

- In July, the MSG recommended that the CBA approve Alabama, Northern Mariana Islands, Maryland, New Hampshire, Puerto Rico, South Carolina, South Dakota, Tennessee, Virgin Islands, and Virginia to be substantially equivalent to NASBA's Guiding Principles of Enforcement. With this determination, all 55 states are substantially equivalent to NASBA's Guiding Principles of Enforcement.

IX. CONCLUSION

It is the opinion of the MSG that the current no-notice practice privilege program offers more consumer protection, when compared to the prior program.

Historically, a significant concern regarding a no-notice practice program centered on reliance of other states' enforcement programs. For practice privilege to work effectively, states must maintain a level of confidence that other states have the resources and ability to effectively regulate their own licensee population. NASBA's Guiding Principles of Enforcement have established appropriate standards for other state boards' enforcement programs, which can also lay the foundation for future consumer protection enhancements.

As the CBA has determined that these principles are equivalent to California's own enforcement practices, this provides a greater level of assurance that California can rely on, and partner with, other states to effectively monitor and enforce their respective rules and regulations, thereby providing greater confidence in this no-notice practice privilege program.

While it is of critical importance that states maintain and use appropriate enforcement practices, it is imperative that consumers have access to disciplinary information resulting from any actions taken by the various states. If non-California licensees wish to continue to practice under California's practice privilege program, their licensing authority must make each licensee's disciplinary history available on the Internet.

For the past three years, the MSG has worked to successfully accomplish its objectives as directed by BPC section 5096.21(e) and the CBA, which has aided in its opinion regarding the no-notice practice privilege program, as follows:

- Adopted policies and procedures that would guide the MSG on conducting its business, holding meetings, and establishing a reporting schedule to the CBA.
- As of May 2017 the MSG held 16 meetings to establish objectives, conduct analyses, deliberate on the consumer protection provisions of the practice privilege law, and make recommendations to the CBA to assist in its determination whether the current practice privilege program provides more, less, or an equivalent amount of consumer protection compared to the previous program.
- Through analysis and research, considered whether the current practice privilege provisions are consistent with the CBA's duty to protect the public in accordance with BPC section 5000.1, and has rendered an opinion in support of this.

- Received feedback from stakeholders and consumer representatives regarding the practice privilege program and its impact on the recipients and providers of public accounting services.
- Issued an update to the CBA following each MSG meeting and presented an Annual Report to the CBA highlighting the MSG's activities for the years of 2014, 2015, 2016, and 2017.

Given the extensive work conducted by the MSG, the collaboration with NASBA on establishing an appropriate standard for the enforcement practices of all boards of accountancy, the input received from consumer organizations and stakeholders, and the guidance provided by the CBA, it is the opinion of the MSG that the current practice privilege program is consistent with the CBA's duty to protect the public and satisfies the objectives of stakeholders.

As this first phase of the MSG's work comes to a close, the MSG stands ready to assist the CBA as it continues to monitor the practice privilege program.

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ATTACHMENT 7
**MINUTES OF THE
MAY 28, 2015 JOINT
CBA & MSG MEETING**

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DUPLICATION PURPOSES.**



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DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
May 28, 2015
JOINT CBA &
MOBILITY STAKEHOLDER GROUP (MSG) MEETING

Hilton Los Angeles Airport
 5711 West Century Boulevard
 Los Angeles, CA 90045
 Telephone: (310) 410-4000

Roll Call and Call to Order.

CBA President Jose Campos and MSG Chair, Katrina Salazar, called the meeting to order at 9:03 a.m. on Thursday, May 28, 2015 at the Hilton Los Angeles Airport.

CBA Members

May 28, 2015

Jose Campos, CPA, President	9:03 a.m. to 10:34 a.m.
Katrina Salazar, CPA, Vice-President	9:03 a.m. to 10:34 a.m.
Alicia Berhow, Secretary/Treasurer	9:03 a.m. to 10:34 a.m.
Sarah (Sally) Anderson, CPA	9:03 a.m. to 10:34 a.m.
Herschel Elkins, Esq.	9:03 a.m. to 10:34 a.m.
Laurence (Larry) Kaplan	9:03 a.m. to 10:34 a.m.
Louise Kirkbride	Absent
Kay Ko	9:03 a.m. to 10:34 a.m.
Leslie LaManna, CPA	9:03 a.m. to 10:34 a.m.
Xochitl León	9:03 a.m. to 10:34 a.m.
Jian Ou-Yang, CPA	9:03 a.m. to 10:34 a.m.
Michael Savoy, CPA	9:03 a.m. to 10:34 a.m.
Mark Silverman, Esq.	9:22 a.m. to 10:34 a.m.
Kathleen Wright, CPA	9:03 a.m. to 10:34 a.m.

MSG Members

Katrina Salazar, CPA, Chair	9:03 a.m. to 10:34 a.m.
Joseph Petito, Esq., Vice-Chair	9:03 a.m. to 10:34 a.m.
Donald Driftmier, CPA	Absent.

Dominic Franzella	9:03 a.m. to 10:34 a.m.
Edward Howard, Esq.	Absent
Michael Savoy, CPA	9:03 a.m. to 10:34 a.m.
Stuart Waldman, Esq.	9:03 a.m. to 10:34 a.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer
Deanne Pearce, Assistant Executive Officer
Rich Andres, Information Technology Staff
Pat Billingsley, Regulations Analyst
Dominic Franzella, Chief, Enforcement Division
Kathryn Kay, Legislation Analyst
Dorothy Osgood, Enforcement Supervising ICPA
Corey Riordan, Board Relations Analyst
Gina Sanchez, Chief, Licensing Division
Kristy Schieldge, Legal Counsel, Department of Consumer Affairs (DCA)
Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)
Matthew Stanley, Examination and Practice Privilege Manager

Committee Chairs and Members

Robert Lee, Chair, Peer Review Oversight Committee
Jeffrey De Lyser, Chair, Enforcement Advisory Committee
Robert Ruehl, Chair, Qualifications Committee

Other Participants

Bruce Allen, California Society of Certified Public Accountants (CalCPA)
Ken Bishop, President and Chief Executive Officer, National Association of State Boards of Accountancy (NASBA)
Maria Caldwell, Chief Legal Counsel and Director of Compliance Services, NASBA
Loretta Doon, Chief Executive Officer, CalCPA
Jason Fox, CalCPA
Stacey Grooms, Regulatory Affairs Manager, NASBA
Jon Ross, KP Public Affairs

- I. Discussion on the National Association of State Boards of Accountancy's (NASBA) Guiding Principles of Enforcement and its Comparison to the California Board of Accountancy's Enforcement Practices, Pursuant to Business and Professions Code Section 5096.21.

Mr. Campos welcomed NASBA's staff: Ken Bishop, Maria Caldwell, and Stacey Grooms.

Mr. Bishop provided an overview of the NASBA's Guiding Principles of Enforcement.

Ms. Caldwell provided the background of the process to complete the NASBA's Guiding Principles of Enforcement (NASBA Enforcement Guidelines). She stated that the process began approximately three years ago with NASBA's Enforcement Resources Committee producing an enforcement resources guide, which provides, components, guides, and sample forms. The Enforcement Resource Guide can be accessed by state boards via NASBA's website. She stated that after completing the resource guide, NASBA produced the NASBA Enforcement Guidelines by focusing on what the day-to-day operations of a good enforcement program look like. Lastly, she reviewed the five components that comprise the NASBA Enforcement Guidelines.

Ms. Salazar inquired if NABSA will continue to monitor states enforcement program and provide updates on the changes.

Mr. Bishop stated that NASBA is aware that the process will be continuous and NASBA is committed to continuing to monitor states' programs.

Mr. Franzella reviewed the comparison of NASBA Enforcement Guidelines to the CBA's Enforcement Program. Mr. Franzella stated that the time frames outlined in the NASBA Enforcement Guidelines align closely to the performance measures adopted by the CBA and that overall, staff believes that the CBA's enforcement practices meet the NASBA Enforcement Guidelines.

Mr. Franzella provided an overview of the CBA's enforcement resources to adequately staff investigations, including the CBA's process to increase or decrease staffing resources and the CBA's ratios of CPA licensees to enforcement staff.

Mr. Campos requested that NASBA provide additional information regarding the ratios, as it is difficult to compare to the CBA's practices.

Ms. Caldwell stated that this area was the most difficult to put into a number and it was determined that the ratios were an over-simplified measure of what the investigative process is and it was not a good measurement of effective enforcement. She stated that after the Enforcement Resources Committee's review, NASBA recommended that the ratios be removed and instead focus on the measures, including workload, the time it takes to complete an investigation, and factors that warrant modification in staffing.

Mr. Elkins suggested the NASBA may want to examine how easy it is to make a complaint with various states.

Mr. Franzella reviewed various resources used by the CBA to perform and complete its investigations, including the qualifications and training of the investigators. He stated that staff believe the CBA enforcement practices

meets the NASBA Enforcement Guidelines as it relates to enforcement resources to adequately staff investigations. Mr. Franzella noted that staff did have some concerns with respect to the ratios identified in this section of the NASBA Enforcement Guidelines, however, after the dialogue from Ms. Caldwell to address the issue and to remove the ratios he did not have any other concerns.

Mr. Franzella reviewed the CBA's case management, review of discipline from other agencies, and probationer tracking. He stated that the CBA has recently began assessing risk factors for licensees placed on probation and staff will conduct practice investigations to further ensure compliance with probationers. Mr. Franzella stated that staff believe the CBA's enforcement practices meets the principles associated with case management.

Mr. Franzella reviewed the CBA's disciplinary guidelines, including the factors in assessing penalties, mitigation, and aggravating factors. Mr. Franzella stated that staff believes the CBA's enforcement practices meets the NASBA Enforcement Guidelines as it relates to the principles for disciplinary guidelines.

Mr. Franzella stated that in regards to the internet disclosure section of the guidelines, the CBA participates in NASBA's Accountancy Licensee Database and CPAVerify. Additionally, the CBA maintains information on its website for consumers including a license lookup feature and publishing disciplinary actions. Mr. Franzella stated that staff believes the CBA's enforcement practices meets the NASBA Enforcement Guidelines as it relates to the internet disclosure requirements.

Mr. Petito inquired if in its totality, the NASBA Enforcement Guidelines meet or exceed the California's standards.

Mr. Campos stated that the CBA will deliberate on the question and that staff's observations were that the CBA's program is at least equal to what is being framed in the NASBA Enforcement Guidelines, with the exception of the ratio aspect in section 2.

II. Public Comments.

There were no comments.

President Campos adjourned the meeting at 10:34 a.m. on Thursday, May 28, 2015.

_____ Jose A. Campos, CPA, President

_____ Katrina Salazar, CPA, MSG Chair

Corey Riordan, Board Relations Analyst, and Patti Bowers, Executive Officer, prepared the Joint CBA and MSG meeting minutes. If you have any questions, please call (916) 561-1718.

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ATTACHMENT 8

**NATIONAL ASSOCIATION OF STATE
BOARDS OF ACCOUNTANCY
GUIDING PRINCIPLES OF
ENFORCEMENT**

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DUPLICATION PURPOSES.**

NASBA

Guiding Principles of Enforcement

The purpose of issuing these Guiding Principles is to promote consumer protection by promoting uniformly effective board enforcement and disclosure policies and practices nationally as a reinforcing compliment to mobility, which depends upon all states having confidence in the enforcement and disclosure policies and practices of the home state of the mobile licensee. While of course not binding on boards, these Guiding Principles are based on exhaustive, multi-year research into the enforcement and disclosure practices and policies of the boards of the 55 jurisdictions, and represent NASBA identifying common practices for boards to consider and, potentially, against which to measure themselves.

ENFORCEMENT

Board enforcement throughout the nation is largely complaint driven. How boards handle complaints is, therefore, foundational to how well its enforcement program works to benefit consumers.

What follows are the performance-based hallmarks of enforcement programs and Guiding Principles related to each. How fast are complaints addressed? How are complaints prioritized? How fast are urgent complaints addressed? What discipline is imposed? What is the quality of the resources available and the capacity of those resources? These are some of the key questions to be weighed when evaluating an enforcement program.

1. Time Frames for prosecuting a complaint from intake to final disposition

General Findings: State laws often dictate the manner in which boards prosecute cases, in some cases dictating the manner in which actions are handled. For example one board may have the authority to close a complaint without merit almost immediately based solely on the decision of the Executive Director, while another board may be required to hold the file open until a vote by the board at the next scheduled meeting.

When considering a new complaint, boards should first determine whether a complaint has legal merit and, if legal merit is found, whether the state board has jurisdictional nexus on the matter. If both these criteria are satisfied and the board determines to move forward with the enforcement matter, the board should then consider whether any discipline already issued by another agency, board, etc. was sufficient to address the violations or whether the harm justifies further enforcement action by the board.

An analysis of the various jurisdictions reveals useful benchmarks for the time frame of handling complaints. Set forth below are targeted time frames that boards should strive to meet, understanding there are instances where different time frames are appropriate in light of the legal and operational considerations (e.g. volume of complaints) that may justify different targets for certain boards.

- a. Decision to (i) close complaints for lack of legal merit or jurisdictional nexus or (ii) initiate an investigation
 - i. Target – 7 days after expiration of time period for responses with either receipt of all supporting document from parties or failure to respond, or at

- next scheduled board/complaint committee meeting
- b. Assignment of investigator
 - i. Target – 10 days from decision to initiate investigation
- c. Completion of investigation
 - i. Target – 180 days or less from initiation of investigation
- d. Formal Discipline at administrative level – final disposition
 - i. Target – 540 days or less from initiation of complaint
- e. Initiation of action (re-opening of complaint) or initiation of new complaint following probation violation
 - i. Target – 15 days or next scheduled board/complaint committee meeting

2. Enforcement resources to adequately staff investigations

General Findings: Both consumers and licensees have an interest in seeing complaints processed expeditiously, with a board enjoying adequate enforcement resources to ensure a fair and efficient process. Generally, the appropriate level of enforcement resources in a given jurisdiction is a function of the size of the jurisdiction’s licensee population, and the number and nature of complaints typically handled by that jurisdiction. A board with 70,000 licensees will need a much more robust investigative unit with more personnel, but a board with 1,500 licensees may be able to utilize board members with specialized knowledge to handle investigations. Overall, 33 jurisdictions have less than 10,000 licensees (“small” jurisdictions); 13 jurisdictions have 10,000-20,000 licensees (“mid-size”); and nine have more than 20,000 licensees (“large”).

- a. In determining adequate staffing resources a board should routinely evaluate staffing levels to ensure that the appropriate number of staff are assigned to the right positions and at the right time. A board should evaluate their respective program needs, taking into consideration workload projections and any new anticipated workload over the coming years (possibly as a result of law or rule changes). When evaluating staffing workload, a board should consider identified core tasks to complete investigations, general duration of time to complete the tasks, and the number of staff presently assigned to handle investigation. Based on this evaluation, a board should determine if any overages or shortages in workload exist and seek to align staffing resources accordingly.
- b. Factors that may warrant modification (up or down) to such ratios:
 - i. Ratio of administrative complaints to practice complaints – history of practice claims in a particular jurisdiction would warrant more investigators per licensee. Administrative complaints are typically less complicated and would include violations like failure to renew, failure to obtain CPE (“Administrative Complaints”). Practice complaints are generally more complex and would include violations such as failure to follow standards, failure to follow the code of conduct and actions involving dishonesty or fraud (“Practice Complaints”).
 - ii. Ratio of complaints involving firms with offices in multiple states versus smaller firms with local offices. The prevalence of complex cases, such as cases against the auditors in Enron and against big firms that involve

representation by outside law firms may require an increase in the ratio of investigators to licensees, to handle the added workload associated with periodic complex cases.

- c. Qualification and training of investigators
 - i. Large, mid-size and small accountancy boards should all seek to utilize CPAs, law enforcement, board staff, or other individuals with accounting or investigative training (such as the Investigator Training Series identified in Section 2 (c)(iii) below or the training offered by the Council on Licensure, Enforcement and Regulation (CLEAR)) as an investigator whenever possible;
 - ii. Encourage investigative staff to attend investigative training seminars such as those hosted by CLEAR;
 - iii. Encourage investigative staff to complete the Investigator Training Series on NASBA.org
 - iv. Boards should establish and follow a process for determining appropriate utilization of CPA investigators and/or CPA board members or staff and non-CPA investigators, which considers whether the case involves an Administrative Complaint or involves a Practice Complaint.
 - v. Boards should utilize subject matter experts for complex investigations involving highly technical areas and standards, such as ERISA, Yellow Book, cases involving complicated tax issues, and fraud.
 - 1. Work with NASBA to identify a means of obtaining the necessary resources if costs are prohibitive to boards
 - 2. Use NASBA pool of available expert witnesses, if needed, to address complex issues, such as those items referenced in subsection (v) above
 - 3. Referral to a board member with expertise that is case specific
 - a. In such cases, the Board member should recuse himself/herself from further participation in any formal disciplinary action in the specific matter
- d. Boards should be able to access funds in a timely manner to handle a case against a big firm, as a demand arises, either through an appropriation process, the board, the umbrella agency, or the prosecuting agency.

3. Case management

General Findings: The volume of complaints considered by a board will also have a bearing regarding case management for a particular board. For example, a board handling 3,000 complaints a year typically should have a system in place to prioritize those cases based upon the potential for harm, while a board receiving only 1-3 complaints will not need a prioritization system because each complaint can receive immediate attention. If the number of complaints received by board requires prioritization in order to adequately address all complaints and best allocate board resources to achieve maximum protection of the public, then such jurisdiction should identify cases for potential to cause greatest harm, or offenses that are indicators of problems that could lead to such harm and adopt procedures to manage Administrative Complaints by handling them in a manner similar to that outlined below in Section 3(a)

and Practice Complaints by handling them in a manner similar to that outlined below in Section 3(b).

- a. Administrative Complaints involving matters of licensing deficiencies such as, failure to timely renew or obtain CPE, improper firm names, other administrative matters and certain first-time misdemeanor offenses, generally pose a lesser threat to the public and as such may be processed as follows:
 - i. Attorney, Executive Director, and/or qualified staff review informal matters
 - ii. Cases can be closed based on voluntary compliance
 - iii. Informal conference may be scheduled to assist in reaching a settlement or if there is non-compliance with an agreed resolution
- b. Practice Complaints generally involving matters of incompetence, dishonesty, violation of any rule of professional ethics or professional conduct, failing to timely complete an engagement, failure to communicate, criminal convictions, breach of fiduciary duty or fraud or disclosing confidential information pose a greater threat to the public and as such are generally processed as follows:
 - i. Summary of investigation is reviewed by Attorney, Executive Director, appointed Board member, or Complaint Committee (depending upon board structure)
 - ii. Further investigation may be requested
 - iii. Information Conference may be scheduled to aid settlement
 - iv. Upon determination of a violation, corrective (remedial) or disciplinary action is taken (either by consent agreement or proceeding to formal hearing) upon approval of the Board
- c. Boards should review discipline from other agencies, such as the DOL, SEC, PCAOB, and AICPA, included in the NASBA Quarterly Enforcement Report to determine whether such discipline should give rise to disciplinary action by the Board.
- d. Boards should use a method of tracking probationary matters with assigned personnel (staff or investigator) to monitor compliance with probationary terms, such as follow up phone calls or other correspondence with licensee, requiring the licensee to appear in person at interviews/meetings as directed by the Board to report on probation compliance, submitting written quarterly compliance reports, and/or allowing a practice investigation upon request of the Board.

4. Disciplinary Guidelines

General Findings: Boards of accountancy are charged with protecting consumers by regulating the profession and disciplining licensees who fail to comply with the professional standards. Another goal of the disciplinary process is to increase adherence to licensing requirements and professional standards, thereby elevating the quality of services provided by the profession. Boards have the authority to impose discipline to revoke, suspend, condition, or refuse to renew a license or certificate for violation of rules and regulations or statutes of the accountancy law. Boards should strive to impose fair and consistent discipline against licensees who violate the accountancy laws or rules. These guidelines recommend penalties and conditions of probation for specific statutes and rules violated, as well as aggravating and mitigating circumstances that may necessitate deviation from the recommended discipline. The disciplinary guidelines are to be used by Board members, Board staff, and others involved in the disciplinary process. Boards may exercise discretion in recommending penalties, including conditions of probation, as warranted by aggravating and mitigating circumstances.

- a. The disciplinary process for boards of accountancy should consider offenses and their appropriate penalties, including the following major categories of offenses. Each determination should be fact specific and penalties may be escalated, reduced or combined depending on the Boards' consideration of the relevant mitigating and aggravating factors.
 - i. Grounds for Revocation
 - 1. Revocation of a license/permit by another agency or Board
 - 2. Failure to inform the Board of a failed peer review
 - 3. Fraud or deceit in obtaining a license
 - 4. Conviction of any crime substantially related to the qualifications, functions, or duties of a CPA (involving dishonesty or fraud)
 - 5. Dishonesty, fraud, or gross negligence in the practice of public accounting
 - 6. Commission of a felony
 - ii. Grounds for Suspension/Probation
 - 1. Failure to comply with board order
 - 2. Failure to meet firm ownership requirements
 - 3. Failure of a peer review
 - iii. Grounds for Monetary Fine/Penalty
 - 1. Unlicensed conduct
 - 2. Failure to comply with professional standards or code of conduct
 - 3. Failure to renew
 - 4. Failure to timely complete CPE or peer review
 - iv. Grounds for Remediation
 - 1. Failure to comply with professional standards
 - 2. Issues regarding client records/ownership of work papers
 - 3. Issues regarding confidential disclosures
 - 4. Unlicensed conduct due to inadvertence (i.e., mobility, multiple designations, foreign accountants, etc.)
 - 5. Misleading name, title, or designation
- b. Boards may adopt specific factors to consider in assessing penalties, such as:
 - i. Permissible sanctions available to the Board, including those sanctions set forth in Section 4(a) above
 - ii. Mitigating or aggravating factors (described in detail below)
 - iii. Past disciplinary history or "trends" in licensee's behavior involving this Board or other agencies such as SEC, IRS, PCAOB and societies
 - iv. Likelihood of repeating the behavior
 - v. Potential for future public harm
 - vi. Potential for licensee's rehabilitation
 - vii. Extent of damages or injury due to licensee's behavior
 - viii. Board sanctions with similar misconduct in other cases
 - ix. Other enforcement actions or legal actions against licensee involving the conduct which is the subject of the current case (and impact of those actions/sanctions upon licensee)
 - x. Whether action was a clear violation or was an area of law/rule subject to

- ii. Boards should strive to provide information necessary for “hashing” licensee records across jurisdictions to the ALD to assist transparency and cross-border discipline

- b. Boards should publish final disciplinary action by the Board through a web site, newsletter or other available media, either with specific information regarding the facts that caused the board to impose discipline including, but not limited to, a board considering posting official documents that would be public records if requested by a consumer, or sufficient information to allow the consumer to contact the Board for particular details.

- c. Boards should capture “discipline under mobility” violation in CPAverify licensee record indicating the state where discipline was issued, with sufficient information to allow the consumer to contact the disciplining board to investigate the activity that resulted in discipline.

** These Guiding Principles are intended for use as a reference by NASBA Member Boards and staff only. Due to the unique structure of each Board of Accountancy, the enforcement process will be conducted differently in each jurisdiction. It is the reader's responsibility to learn state specific procedures, bearing in mind that each jurisdiction has different statutes, rules and case law which frequently change the ways that Accountancy Boards conduct enforcement. Only the current version of the document will be available for use.*

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ATTACHMENT 9
**EXCERPTS FROM THE MINUTES
OF THE MAY 28-29, 2015
CBA MEETING**

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DUPLICATION PURPOSES.**



DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY
 2000 EVERGREEN STREET, SUITE 250
 SACRAMENTO, CA 95815-3832
 TELEPHONE: (916) 263-3680
 FACSIMILE: (916) 263-3675
 WEB ADDRESS: <http://www.cba.ca.gov>



DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

MINUTES OF THE
May 28-29, 2015
CBA MEETING

Hilton Los Angeles Airport
 5711 West Century Boulevard
 Los Angeles, CA 90045
 Telephone: (310) 410-4000

Roll Call and Call to Order.

CBA President Jose Campos called the meeting to order at 1:31 p.m. on Thursday, May 28, 2015 at the Hilton Los Angeles Airport. The CBA convened into closed session at 4:18 p.m. until 5:05 p.m. The meeting reconvened into closed session on Friday, May 29, 2015 at 9:00 a.m. President Campos adjourned the meeting at 10:26 a.m.

CBA Members

May 28, 2015

Jose Campos, CPA, President	1:31 p.m. to 5:05 p.m.
Katrina Salazar, CPA, Vice-President	1:31 p.m. to 5:05 p.m.
Alicia Berhow, Secretary/Treasurer	1:31 p.m. to 5:05 p.m.
Sarah (Sally) Anderson, CPA	1:31 p.m. to 5:05 p.m.
Herschel Elkins, Esq.	1:31 p.m. to 5:05 p.m.
Laurence (Larry) Kaplan	1:31 p.m. to 5:05 p.m.
Louise Kirkbride	Absent
Kay Ko	1:31 p.m. to 5:05 p.m.
Leslie LaManna, CPA	1:31 p.m. to 5:05 p.m.
Xochitl León	1:31 p.m. to 5:05 p.m.
Jian Ou-Yang, CPA	1:31 p.m. to 5:05 p.m.
Michael Savoy, CPA	1:31 p.m. to 5:05 p.m.
Mark Silverman, Esq.	1:31 p.m. to 5:05 p.m.
Kathleen Wright, CPA	1:33 p.m. to 5:05 p.m.

CBA Members

May 29, 2015

Jose Campos, CPA, President	9:00 a.m. to 10:26 a.m.
Katrina Salazar, CPA, Vice-President	9:00 a.m. to 10:26 a.m.
Alicia Berhow, Secretary/Treasurer	9:00 a.m. to 10:26 a.m.
Sarah (Sally) Anderson, CPA	9:00 a.m. to 10:26 a.m.
Herschel Elkins, Esq.	9:00 a.m. to 10:26 a.m.
Laurence (Larry) Kaplan	9:00 a.m. to 10:26 a.m.
Louise Kirkbride	Absent
Kay Ko	9:00 a.m. to 10:26 a.m.
Leslie LaManna, CPA	9:00 a.m. to 10:26 a.m.
Xochitl León	9:00 a.m. to 10:26 a.m.
Jian Ou-Yang, CPA	9:00 a.m. to 10:26 a.m.
Michael Savoy, CPA	9:00 a.m. to 10:26 a.m.
Mark Silverman, Esq.	9:00 a.m. to 10:26 a.m.
Kathleen Wright, CPA	9:00 a.m. to 10:26 a.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer
Deanne Pearce, Assistant Executive Officer
Rich Andres, Information Technology Staff
Pat Billingsley, Regulations Analyst
Dominic Franzella, Chief, Enforcement Division
Kathryn Kay, Legislation Analyst
Dorothy Osgood, Enforcement Supervising ICPA
Corey Riordan, Board Relations Analyst
Gina Sanchez, Chief, Licensing Division
Kristy Schieldge, Legal Counsel, Department of Consumer Affairs (DCA)
Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)
Matthew Stanley, Examination and Practice Privilege Manager

Committee Chairs and Members

Robert Lee, Chair, CPA, Peer Review Oversight Committee
Jeffrey De Lyser, CPA, Chair, Enforcement Advisory Committee
Robert Ruehl, CPA, Chair, Qualifications Committee

Other Participants

Ken Bishop, President and Chief Executive Officer, National Association of State Boards of Accountancy
Loretta Doon, Chief Executive Officer, California Society of Certified Public Accountants (CalCPA)
Jason Fox, CalCPA
Joseph Petito, The Accountants Coalition

Jon Ross, KP Public Affairs

I. Regulations.

A. Regulation Hearing Regarding Title 16, California Code of Regulations (CCR) Section 70 – Fees.

Mr. Billingsley read the following statement regarding the regulation hearing into the record.

“Good Afternoon. This is a public hearing on proposed regulations of the California Board of Accountancy, Department of Consumer Affairs, to consider amending regulations restoring the certified public accountant biennial renewal and initial permit fees to \$200.

On behalf of the Board and its staff, I'd like to welcome you. My name is Pat Billingsley and I serve as the Board's Regulatory Analyst. I will preside over this hearing on behalf of the Board and the Department.

The California Board of Accountancy is contemplating this action pursuant to the authority vested by Sections 5010, and 5134 of the Business and Professions Code, authorizing the Board to amend, adopt, or repeal regulations for the administration and enforcement of Chapter 1 of Division 3 of the Business and Professions Code. For the record, the date today is May 28, 2015 and the time is approximately 1:32 p.m. Our hearing is being held at the Hilton Los Angeles Airport, 5711 West Century Boulevard, in Los Angeles, CA.

The notice for the hearing on these proposed regulations was published by the Office of Administrative Law. Interested parties on our mailing list have been notified of today's hearing. The language of the proposed regulations has been mailed to those who requested it and has been available on the board's Web site and upon request by other members of the public. Copies of the proposed regulations are available.

If the Board has received written comments on the proposal, those comments will be entered into the official record of the proceedings. The Board shall be provided and shall consider all written comments received up to 5:00 p.m., May 25, 2015. Those persons interested in testifying today should identify themselves and the section or subsection of the proposed regulations that they wish to address. Individuals will be called to testify in the order determined by recognition from the hearing officer.

If you have a comment about the proposed regulation or any part or specific subsection of the proposal, please step up to the microphone and give your name, spelling your last name and tell us what organization you represent, if any. Speak loudly enough for your comments to be heard

communicated that the portion of the guidelines regarding staffing ratios would be changed to remove specific ratios. Ms. Salazar stated that with the change, the MSG's opinion is that the NASBA's Guiding Principles of Enforcement meet or exceed the enforcement practices of the CBA.

4. Discussion About the Timeline for Activities Regarding Determinations to be Made Pursuant to Business and Professions Code Section 5096.21.

Ms. Salazar reported that the MSG discussed the timeline regarding determinations to be made pursuant to BPC section 5096.21. She stated that the MSG did not take action and the timeline would become a standing MSG agenda item to allow the MSG an opportunity to discuss its contents as needed.

Mr. Campos recommended that staff do not send communication to other states until additional information is gathered and allow the Executive Officer to determine when the communication should be sent.

5. Discussion Regarding NASBA's Activities and CPAVerify.

Ms. Salazar reported that the NASBA will be holding its Western Regional Meeting in California on June 17-19, 2015. She stated that currently five states are not participating in the Accountancy Licensee Database (ALD) and CPAVerify, however, NASBA has indicated that Michigan will join ALD within a month.

6. Discussion Regarding Proposed Agenda Items for the Next MSG Meeting.

Ms. Salazar reported that if the letters are sent to other states requesting additional information to assist the CBA in making its state-by-state determination, staff will bring any initial responses and the MSG will be discussing the procedural issues for how the states will be reviewed to determine substantial equivalency.

- X. Public Hearing and Possible Finding as to Whether NASBA's Guiding Principles of Enforcement Meet or Exceed the CBA's Enforcement Practices Made Pursuant to Business and Professions Code Section 5096.21(c)(2).

It was moved by Ms. Salazar and seconded by Ms. Anderson that the CBA accepts the NASBA's Guiding Principles of Enforcement as meeting the CBA's enforcement practices and authorize the CBA President or Executive Officer to approve any non-substantive

changes.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Mr. Jian Ou-Yang, Ms. Salazar, Mr. Savoy, Mr. Silverman, and Ms. Wright.

No: None.

Abstain: None.

Absent: None.

The motion passed.

XI. Acceptance of Minutes.

A. Draft Minutes of the March 19-20, 2015 CBA Meeting.

B. Minutes of the March 19, 2015 MSG Meeting.

C. Minutes of the March 19, 2015 CPC Meeting.

D. Minutes of the March 19, 2015 LC Meeting.

E. Minutes of the March 19, 2015 EPOC Meeting.

F. Minutes of the January 29, 2015 EAC Meeting.

G. Minutes of the January 30, 2015 PROC Meeting.

H. Minutes of the January 21, 2015 Meeting.

It was moved by Mr. Kaplan and seconded by Ms. LaManna to approve agenda items XI.A. – XI.H., including the non-substantive changes to XI.A. which were provided by Mr. Campos.

Yes: Ms. Anderson, Ms. Berhow, Mr. Campos, Mr. Elkins, Mr. Kaplan, Ms. Ko, Ms. LaManna, Ms. León, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: Mr. Ou-Yang and Ms. Wright.

Absent: None.

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DUPLICATION PURPOSES.**

ATTACHMENT 10

**NATIONAL ASSOCIATION OF STATE
BOARDS OF ACCOUNTANCY
OBJECTIVES FOR SUBSTANTIAL
EQUIVALENCY EVALUATION**

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DUPLICATION PURPOSES.**

The following information is provided by the National Association of State Boards of Accountancy (NASBA) to serve as its basis for determining which states' enforcement practices are substantially equivalent to its Enforcement Guidelines.

GUIDING PRINCIPLES OF ENFORCEMENT

OBJECTIVES FOR SUBSTANTIAL EQUIVALENCY EVALUATION

The CBA, MSG, and NASBA recognize that the enforcement process of each jurisdiction will vary based on many factors that are specific to the particular board, such as number of licensees, number of complaints/cases, authority vested in the board, delegation of certain phases of enforcement to other agencies, and interaction with an umbrella agency. As such, it is a disservice to this project to attempt to conform the review of an enforcement process to an objective checklist which does not allow one to consider the uniqueness of a specific enforcement process and its ability to meet the needs of the particular board. The term "substantial equivalency" implies that the review is not a checklist of specific data points, but rather an analysis that allows various methods of satisfying the over-reaching objectives of the project. Therefore, the review to determine whether a board's enforcement process is substantially equivalent to the Guiding Principles of Enforcement must be a subjective analysis of each jurisdiction's statutes, rules, and practices to inquire whether those elements create an enforcement process that reflects the comprehensive objectives of the Guiding Principles as described below.

The development of the Guiding Principles of Enforcement was a key element in assisting the California Board in meeting its legislative mandate pursuant to 5096.21, as well as a significant advance in cross-border accountancy regulation. The Guiding Principles identify the characteristics of an active and effective enforcement process, thereby enabling all state Boards to have confidence that other jurisdictions have a proactive culture of enforcement which successfully regulates the profession and protects the public consumer. In the environment of CPA mobility, Boards who are allowing CPAs licensed in other jurisdictions to provide services to their consumers through mobility have a vested interest in ensuring that the enforcement practices of other jurisdictions meet or exceed the objectives of the Guiding Principles. Consumer protection and disclosure of disciplinary data were important aspects of the development of the Guiding Principles, and Boards have used these Guiding Principles to review and in certain cases enhance their enforcement practices and policies."

1. Time Frames for Prosecuting a Complaint from Intake to Final Disposition

The structure and authority of boards of accountancy vary greatly across the country. Some boards are empowered to close or dismiss a matter without board vote while others would be required to hold the complaint open until a vote at the next board meeting. Some boards do not perform their own investigation of a complaint, but rather are required to send the complaint to an investigative unit within an umbrella agency, in which case it is beyond the authority of the board to regulate the speed of investigation, available investigative personnel, assignment of files, etc. The Guiding Principles set forth

benchmarks the help facilitate the speedy handling of complaints. Regardless of the timing of individual steps throughout the process (perhaps a board takes longer than the benchmark of 10 days to assign an investigator but completes investigations in less than the benchmark of 180 days), the ultimate objective of this principle is that (1) matters will be resolved in 540 days or less from the initiation of the complaint. Parties recognize that matters which are pending before other agencies or involved in civil litigation, or complex matters involving large firms or multiple parties may still fall outside this goal of 540 days due to the circumstances of the particular case.

2. Enforcement Resources to Adequately Staff Investigations

Boards typically either have one or more investigators dedicated to the board, utilize an investigator from an investigative pool provided by an umbrella agency, or utilize board staff or personnel to investigate complaints. Any of these methods may provide adequate resources to investigate complaints in a timely and knowledgeable manner. (1) As a measurement, if a board is able to meet the 540 day disposition benchmark in Principle #1, then the board is adequately staffed with sufficient personnel to timely conduct the investigations. Otherwise, the investigation process would bottleneck the disposition of cases. (2) Regarding qualification and training of investigators, those boards utilizing a designated investigator or personnel from an investigative pool would have sufficient investigative training to satisfy their particular board. Likewise, this principle can be satisfied by the performance of investigations by board members who can additionally provide particular subject matter expertise. (3) Boards should have access (through use of board members, contract hire, or other means) to subject matter experts to advise or testify as needed. (4) Boards should be able to access funds in order to prosecute a case against a big firm.

3. Case Management

The primary goal of this Principle is to determine that the board has (1) a case management process in place which allows staff to handle those complaints that can be dealt with administratively, if the Board is authorized to do so, and creates a process for efficient management of practice complaints through investigation, settlement, disciplinary hearings, etc. Again, the time management goal of 540 days in Principle #1 is an indicator that a board's case management system is meeting this criteria. (2) In addition, the case management process should also allow the board to prioritize those cases with the greatest potential for harm, if prioritization is required due to larger caseloads. (3) Boards should also consider discipline from other agencies as a basis for possible discipline by the board. (4) If probation is utilized, then the terms of the probation agreement should be monitored.

4. Disciplinary Guidelines

The disciplinary process of each board should consider offenses and appropriate penalties. (1) Boards may have written disciplinary guidelines and/or may utilize historical knowledge of the disciplinary history of the board to ensure consistency in disciplinary decisions. (2) Penalties may be escalated, reduced, or combined with other penalties or remedial measures depending on the board's

consideration of relevant mitigating or aggravating factors. Penalties can include revocation, suspension/probation, monetary fine/penalty, and remediation.

5. Internet Disclosures

The goal of internet disclosures is to provide sufficient information to allow the public to make an informed decision regarding the employment of a specific CPA. Consumers should be able to ascertain whether or not a CPA has an active license and whether the CPA has been disciplined by a particular board of accountancy. Because public records laws vary among jurisdictions, states should be least provide sufficient information that a consumer can readily determine if any regulatory “flags” exist that warrant further investigation by the consumer. This Principle can be satisfied by (1) disciplinary data being reflected on the board’s web site or (2) by the board providing disciplinary flags to be displayed in CPAverify.

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DUPLICATION PURPOSES.**



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