

BACKGROUND PAPER FOR THE California Board of Accountancy

**(Joint Oversight Hearing, March 18, 2015, of the Senate Committee on
Business, Professions and Economic Development and the
Assembly Committee on Business and Professions)**

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE CALIFORNIA BOARD OF ACCOUNTACY

BRIEF OVERVIEW OF THE CALIFORNIA BOARD OF ACCOUNTANCY

History and Function of the California Board of Accountancy

The California Board of Accountancy (CBA) was established in 1901 and was charged with regulating the practice of accountancy, and prohibited anyone from falsely claiming to be a certified accountant. The first accountants certified by the CBA were required to sit for written examinations, including questions on Theory of Accounts, Practical Accounting, Auditing, and Commerce Law, and attain a passage rate of at least 70 percent for each section. Applicants were required to provide a notarized affidavit certifying at least three years accounting experience, at least two years of which must have been in the office of a Certified Public Accountant (CPA) performing actual accounting work. In addition, each applicant was required to submit three references testifying to his character, in the form of a "Certificate of Moral Character." Today's mandate that each CBA licensee pass an ethics course finds its antecedent in the CBA's original requirement of this certificate. In 1929, the Legislature placed the CBA within the Department of Professional and Vocational Standards. In 1945, the Accountancy Act was substantially revised. In 1971, the Legislature located the CBA within the newly-created Department of Consumer Affairs (DCA). As of January, 2015, the CBA licenses about 91,847 individual certified public accountants, 82 public accountants, 5,556 accountancy firms (both Partnerships (1,468) and Corporations (4,088)) and currently registers 294 out-of-state accounting firms.

The CBA enforces the Accountancy Act which defines the practice of public accountancy as the process of recording classifying, reporting and interpreting the financial data of an individual or an organization. In California, the accounting profession's licensed practitioners are the CPAs and the Public Accountants (PA). Shortly after World War II, the PA license was awarded to individuals who demonstrated experience in public accounting and possessed a specified educational background. As of January, 2015 only 82 individuals held PA licenses. The last PA license was issued in 1968, and as these particular licenses expire, California eventually will no longer have licensees with this designation. A CPA is a person who has met the requirements of California state law, including education, examination, and experience requirements, and has been issued a license to practice public

accountancy by the CBA. Only persons who are licensed can legally be called a CPA or a PA. Additionally, the CBA exercises regulatory authority over accountancy firms. As accounting practitioners, CPAs and PAs are proprietors, partners, shareholders and staff employees of public accounting firms. They provide professional services to individuals, private and public companies, financial institutions, nonprofit organizations, and local, state and federal government entities. CBA's regulatory authority over CPAs, PAs, and accounting firms is guided by CBA's statutory mandate to protect the public. The Accountancy Act provides that:

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

Additionally, the CBA's 2013-2015 Strategic Plan states that the CBA's mission is:

“To protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards.”

In concert with this statutory mandate and Strategic Plan, the CBA establishes and maintains entry level standards of qualification and conduct within the accounting profession, primarily through its authority to license. Through its Examination and Initial Licensure Programs, the CBA qualifies California candidates for the national Uniform CPA Examination, certifies and licenses individual CPAs, registers accountancy partnerships and accountancy corporations. Additionally, CBA ensures that licensees maintain the current professional knowledge necessary for competent performance, permits qualified out-of-state CPAs to practice public accountancy in California pursuant to a practice privilege, and exercises disciplinary authority over CPAs, PAs and accounting firms. CBA performs its consumer protection mission for many stakeholders, including:

- Consumers of accounting services who require audits, reviews, and compilations of financial statements, tax preparation, financial planning, business advice and management consultation, and a wide variety of related tasks.
- Lenders, shareholders, investors, and small and large companies that rely on the integrity of audited financial information.
- Governmental bodies, donors, and trustees of not-for-profit agencies that require audited financial information or assistance with internal accounting controls.
- Regulatory bodies such as the Securities and Exchange Commission, the Public Company Accounting Oversight Board, the Public Utilities Commission, and federal and state banking regulators; local, state, and federal taxing authorities.
- Retirement systems, pension plans, and stock exchanges.

CBA is a public majority board and is composed of 15 members: seven CPAs and eight public members who shall not be licensees of the CBA, or registered by the CBA. The Governor appoints four of the public members and the seven CPAs, while the Senate Rules Committee and the Assembly Speaker each appoint two public members. Each member of the CBA is appointed for a term of four

years and holds office until they are reappointed, a successor is appointed, or until one year has elapsed since the expiration of the term for which they are appointed, whichever occurs first. The current members of the CBA are as follows:

Board Members	Appointment Date	Term Expiration Date	Appointing Authority
<p>Jose A. Campos, CPA, President Mr. Campos was appointed to the CBA in December 2012 by Governor Edmund G. Brown, Jr. and served as Vice President prior to his election as President in November 2014. He is currently a partner at Deloitte and Touche LLP. Mr. Campos serves on the Board of Advisors of the Robert Day School of Finance and Economics at Claremont McKenna College and previously served as Chairman of the Finance Committee of the Board of Directors of AltaMed Health Services. Mr. Campos is a member of the California Society of Certified Public Accountants, the American Institute of Certified Public Accountants and the Association of Latino Professionals in Finance and Accounting.</p>	December 12, 2012	November 26, 2015	Governor
<p>Katrina Salazar, CPA, Vice-President Ms. Salazar was appointed to the CBA in December 2012 by Governor Edmund G. Brown, Jr. and served as Secretary/Treasurer prior to her election as Vice President in November 2014. She has also served as the Executive Director of the Rotary Club of Sacramento, Chief Financial Officer at the Academic Senate for California Community Colleges and the American Red Cross Sacramento Sierra Chapter. Ms. Salazar previously held several positions at Reznick Group, including senior audit manager, and has been an adjunct accounting professor with the Los Rios Community College District. Ms. Salazar is a member of the California Society of Certified Public Accountants and the American Institute of Certified Public Accountants.</p>	December 14, 2012	November 26, 2015	Governor
<p>Alicia Berhow, Secretary/Treasurer Ms. Berhow was appointed to the CBA by the Speaker of the Assembly in February 2011 and elected as Secretary/Treasurer in November 2014. She has served as the Vice President of Workforce Development and Advocacy for the Orange County Business Council since April of 2007. Previously, she served for five years as Senior Field Representative for Congresswoman Loretta Sanchez working on education and health care issues. Ms. Berhow currently serves as a board member, chairing Economic Development for the Anaheim Workforce Investment Board, an Ambassador for the Delhi Center in Santa Ana, and as a board member for the Community Action Partnership - Orange County.</p>	February 15, 2011	January 1, 2015	Speaker of the Assembly
<p>Sarah (Sally) Anderson, CPA Ms. Anderson was appointed to the California Board of Accountancy by Governor Arnold Schwarzenegger in May 2007. She serves on</p>	May 3, 2007	January 1, 2015	Governor

<p>various CBA committees, and held the office of Vice President from 2009-2010, and President from 2010-2011. She is a retired Ernst & Young assurance partner and served as the managing partner of the Orange County and Riverside offices. She has been involved in numerous community and philanthropic organizations. Ms. Anderson is currently the Chair of the Board of the Pacific Symphony, a member of the University of California, Irvine CEO Roundtable, a founding member of the Women's Philanthropy Fund of Orange County's United Way, and the Treasurer of the Pacific Club.</p>			
<p>Herschel T. Elkins, Esq. Mr. Elkins was appointed to the California Board of Accountancy by the Senate Rules Committee in September 2008, and serves on various CBA committees. He previously headed the Consumer Law Section in the California Attorney General's Office before retiring as a Special Assistant Attorney General. Mr. Elkins also served on various task forces and investigative committees on consumer protection matters and drafted many of California's consumer protection statutes.</p>	September 19, 2008	January 1, 2016	Senate Rules Committee
<p>Laurence (Larry) Kaplan Mr. Kaplan was appointed to the California Board of Accountancy by the Speaker of the Assembly in March 2011. He is an independent management consultant specializing in assisting non-profits, elected officials and public agencies. He has worked extensively in the non-profit sector, and previously served as Los Angeles Area Director of the Trust for Public Land, Southern California Regional Director for Senator Barbara Boxer, and Chief of Staff for Councilman Mike Woo.</p>	March 11, 2011	January 1, 2017	Speaker of the Assembly
<p>Louise Kirkbride Ms. Kirkbride was appointed to the California Board of Accountancy by Governor Arnold Schwarzenegger in March 2008, and serves on various CBA committees. She founded Broad Daylight and Answer Systems, and previously served as marketing manager for Tektronix - CAE Systems. Ms. Kirkbride is a member of the board of trustees at the California Institute of Technology and a former board member on the Contractors' State License Board.</p>	January 2, 2011	January 1, 2015	Governor
<p>Kay Ko Ms. Ko was appointed to the California Board of Accountancy by Governor Edmund G. Brown, Jr. in December 2013. She has served in multiple positions at the Federal Bureau of Investigation since 1993, including community outreach specialist, supervisory intelligence analyst and linguist. She is also serving as a member of the Board of Visitors of Pepperdine University Graduate School of Education and Psychology. Ms. Ko earned a Doctor of Philosophy degree in comparative education from the University of</p>	December 3, 2013	November 26, 2016	Governor

California, Los Angeles and a Juris Doctor degree from Loyola Law School.			
Leslie J. LaManna, CPA Ms. LaManna was appointed to the California Board of Accountancy by Governor Arnold Schwarzenegger in January 2007. She served as President of the CBA from 2012-2013. Ms. LaManna also previously served as Secretary/Treasurer and Vice President of the CBA. She has served as the President of the San Diego Chapter of the California Society of CPAs and as adjunct professor in accounting for the University of California, San Diego Extension. She is currently a partner in the public accounting firm of LaManna & LaManna, CPA.	January 12, 2007	January 1, 2016	Governor
Xochitl A. León Ms. León was appointed to the California Board of Accountancy in January 2015 by the Senate Rules Committee. She is Vice President of Hispanic Segment Marketing at Wells Fargo Bank. Ms. León is also a member of the Hispanas Organized for Political Equality (HOPE) Leadership Institute 2014, Latinas in STEM2 to Achieve Success (LISTAS), and serves as a board member of Arise High School in Oakland, CA.	January 7, 2015	January 1, 2019	Senate Rules Committee
Michael M. Savoy, CPA Mr. Savoy was appointed to the California Board of Accountancy in November 2014 by Governor Edmund G. Brown, Jr., a position in which he previously served since 2010. He held the office of Secretary/Treasurer from 2011-2012, Vice President from 2012-2013, and President from 2013-2014. Mr. Savoy is managing director at Gumbiner Savett Inc., and was previously a partner at Savoy & Colin. He is a member of the finance committee, executive committee and member of the board of the Los Angeles Chapter of the Chamber of Commerce, as well as a member of the Employee Stock Ownership Plan Association. He is a past chairman of the Board of the Americas Region of BKR International. Mr. Savoy is a member of the California Society of Certified Public Accountants and the American Institute of Certified Public Accountants.	December 21, 2010	November 26, 2018	Governor
Mark J. Silverman, Esq. Mr. Silverman was appointed to the California Board of Accountancy by Governor Edmund G. Brown, Jr. in January 2014. Mr. Silverman, of Santa Monica, has been an Advisor at Twistory Entertainment Studios and Entrepreneur in Residence at the Georgetown University's McDonough School of Business since 2013. He held multiple positions at ScrollMotion, Inc. from 2009-2013 including Executive Vice President and Chief Operating Officer. He was a principal at YQ Holdings Group from 2002 to 2009, Executive Vice President at US Interactive from 1998 to 2001 and Chief Operating Officer at Digital Evolution Inc.	January 15, 2014	January 1, 2018	Governor

from 1996 to 1998. Mr. Silverman held multiple positions including Vice President at Coast Converters Inc. from 1981 to 1996 and served as an Attorney Advisor at the Federal Trade Commission from 1976 to 1980. Mr. Silverman earned a Bachelor of Science in Business from Georgetown University and a Juris Doctor from the Georgetown University Law Center.			
Kathleen K. Wright, CPA Ms. Wright was appointed by Governor Edmund G. Brown, Jr. in February 2015. She is a professor at Golden Gate University School of Taxation where she is the Director of the State and Local Tax Program. Ms. Wright has a private tax practice focusing on representation and small business tax planning and consulting. She earned a Master of Laws degree in taxation from Golden Gate University, a Juris Doctor degree from Fordham University School of Law, and a Master of Business Administration degree in taxation from New York University. Ms. Wright is a CPA licensed in California and New York and admitted to practice law in New York. She is also a member of the California Society of Certified Public Accountants, American Institute of Certified Public Accountants and the American Bar Association.	February 2, 2015	November 26, 2017	Governor
Vacant (Professional)			
Vacant (Public Member)			

CBA currently has eight committees to deal with licensing, enforcement, legislative and education issues. The Enforcement Advisory Committee (EAC) provides assistance and expertise in licensee investigations. The Qualifications Committee (QC) reviews the experience of applicants for licensure and makes recommendations to the CBA. The Accounting Education Committee (AEC) was a temporary committee established to advise the CBA on accounting study guidelines for the additional 20 hours of education required in accounting for licensure as of January 1, 2014. The Ethics Curriculum Committee (ECC) was also a temporary committee which recommended to the CBA ethics study guidelines for the additional 10 hours of education required for licensure as of January 1, 2014. The Peer Review Oversight Committee (PROC) provides oversight to the Peer Review Program. The Committee on Professional Conduct (CPC) considers issues relating to professional conduct as well as consumer protection. The Enforcement Program Oversight Committee (EPOC) reviews policy issues related to the Enforcement Program and oversees program compliance. The Strategic Planning Committee (SPC) assists the CBA in the development and implementation of the CBA Strategic Plan. Lastly, the Legislative Committee (LC) reviews, recommends and advances legislation. The CBA also has a Mobility Stakeholder Group (MSG) to review the practice privilege law and assure that the provisions of the practice privilege satisfy the objectives of the stakeholders of the accounting profession and protect consumers of those services. A Taskforce to Examine Experience for CPA Licensure (TEEL) was also formed temporarily in 2013, to evaluate California’s experience requirement for licensure and determine what modifications, if any, should be made to the present requirements. The TEEL met three times in 2013 and after extensive evaluations and discussions with the profession and public basically reached the conclusion that no changes were necessary except for possibly eliminating the attest experience requirement. However, upon review by the CBA of this recommendation, it was determined that additional study was necessary on whether or not to eliminate the attest experience requirement.

Fiscal, Fund and Fee Analysis

The CBA is a special fund agency, and its funding comes from licensing fees, and also receives revenue through its citation and fine program and through administrative penalties. The following is the past (since FY 2010/11), current and proposed/projected fund condition of CBA:

Fund Condition						
(Dollars in Thousands)	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15 (Proposed)	FY 2015-16 (Proposed)
Budget Authority (excluding reimbursements)	\$12,225	\$11,452	\$11,584	\$11,854	\$13,709	\$13,810
Beginning Balance	\$20,135	\$14,346	\$14,301	\$15,122	\$14,238	\$6,123
Prior Year Adjustment	\$258	\$305	\$156	\$239	\$0	\$0
General Revenues	\$13,025	\$10,004	\$10,025	\$10,276	\$5,432	\$5,325
Interest Income	\$66	\$48	\$41	\$33	\$0	\$0
Total Net Receipts (Revenue plus Interest)	\$13,091	\$10,052	\$10,066	\$10,309	\$ 5,432	\$5,325
Less Loans to General Fund	-\$10,000	-\$1,000	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Loans Repaid From General Fund	\$0	\$0	\$0	\$0	\$0	\$6,000
Loan Interest Amount ¹	\$0	\$0	\$0	\$0	\$0	\$1,861
Total Resources	\$23,484	\$23,703	\$24,523	\$25,670	\$19,670	\$19,309
Total Expenditures	\$9,397	\$10,438	\$10,267	\$11,721	\$13,709	\$13,810
Less Scheduled Reimbursements	-\$24	-\$215	-\$126	-\$203	-\$296	-\$296
Total Net Expenditures	\$9,373	\$10,223	\$10,141	\$11,518	\$13,413	\$13,514
Receipts in Excess of Expenses	\$3,718	-\$171	-\$75	-\$1,209	-\$7,981	-\$8,189
Plus Cost Recovery	\$234	\$822	\$740	\$86	\$134	\$134
Fund Reserve Balance	\$14,346	\$14,301	\$15,122	\$14,238	\$6,123	\$5,661
Months in Reserve	16.8	16.9	15.8	12.7	5.4	5.4

¹Loan interest calculated at a simple interest rate of 2.64% through June 30, 2014.

The total resources anticipated by CBA for fiscal year (FY) 2013/2014 is \$25,670,000, and proposed for FY 2014/2015 is \$19,670,000 and for FY 2015/2016 is \$19,309,000. CBA's total expenditures for FY 2013/2014 was \$11,518,000 and is anticipated for FY 2014/2015 to be \$13,413,000, and for FY 2015/2016 to be \$13,514,000. As of June 30, 2014, the CBA Reserve was at 12.7 months of expenditures. Expenditures outpaced revenues by approximately \$1.2 million. The CBA implemented temporary fee reductions on July 1, 2014, as a means of further reducing the reserve.

As recently as 2011, the reserve was set statutorily at nine months of expenditures. SB 80 of 2011 amended BPC section 5134(f) and eliminated the nine-month requirement. Although this nine-month requirement was eliminated, the CBA must still comply with BPC section 128.5(a) capping fund balances at no more than two years of expenditures. The CBA is projecting a negative annual cash flow of approximately \$8 million in FYs 2014/2015 and 2015/2016, reducing the reserve to approximately 5.4 months; however, at no point during this time does the CBA expect to be insolvent. The CBA will restore fees back to balancing levels in FY 2016/2017. As always, the CBA indicates that it will be closely monitoring the reserve, revenue and expenditure levels through quarterly financial statements which are standing agenda items at the CBA meetings. It should be noted that the CBA also has five outstanding loans which were made to the General Fund totaling \$31,270,000. No repayments have been made to date; however, the Department of Finance has scheduled a \$6 million loan to be repaid in FY 2015/2016.

The following is a breakdown of expenditures by program component of the CBA's since FY 2010/2011:

Expenditures by Program Component (list dollars in thousands)								
	FY 2010-11		FY 2011-12		FY 2012-13		FY 2013-14	
	Personnel Services	OE&E						
Enforcement	1,285	1,425	1,736	1,543	1,927	1,212	2,222	1,341
Examination	467	210	562	288	530	198	645	154
Practice Privilege	85	33	119	29	105	40	49	24
Client Services ¹	110	19	0	0	0	0	0	0
Renewal	509	306	675	228	720	427	817	594
Initial Licensing	775	254	804	253	763	254	785	300
Licensing Administration	369	92	394	99	402	92	442	88
Executive ²	321	218	433	200	329	209	353	583
Administration ³	1,367	448	1,394	433	1,463	403	1,507	412
Net Expenditures	5,288	3,005	6,117	3,074	6,239	2,835	6,820	3,496
DCA Pro Rata	0	1,165	0	1,205	0	1,130	0	1,405
TOTAL EXPENDITURES	\$5,286	\$4,170	\$6,117	\$4,279	\$6,239	\$3,965	\$6,820	\$4,901

¹Unit was dissolved at the end of FY 2010-11.
²Executive expenditures include cost for executive staff and Board members.
³Administration expenditures include costs for administrative staff, administrative support, and fiscal services.

The CBA is comprised of three Divisions – Enforcement, Licensing, Administration/`Executive – with each Division further divided into units to run the day-to-day business needs of the CBA. The Enforcement Division – comprised of Technical Investigations, CORI Investigations, Non-Technical Investigations, and Discipline and Probation Monitoring Units – accounted for approximately 31 percent or \$3.6 million of the CBA’s total expenses in FY 2013/2014. The Licensing Division – comprised of Examination, Practice Privilege, License Renewal and Continuing Competency, and Initial Licensing Units – accounted for 33 percent or \$3.9 million of all CBA spending in FY 2013/2014. The Administration/Executive Division totals 24 percent or \$2.8 million of CBA expenditures in FY 2013/2014. Department of Consumer Affairs (DCA) Pro Rata charges accounted for 12% or \$1.4 million of CBA expenditures in FY 2013/2014. It should be noted that the CBA is in Phase 3 of the BreZE project and has so far been paying a minimal amount since FY 2009/2010, as part of its Pro Rata payments to the BreZE expenditures. This however will increase substantially to approximately \$615,000 for FYs 2015/2016 and 2016/2017.

The fee schedule and revenue collected over the past four years is reflected in the chart below:

Fee Schedule and Revenue (dollars in thousands)							
Fee	Current Fee Amount	Statutory Limit	FY 2010/11 Revenue	FY 2011/12 Revenue	FY 2012/13 Revenue	FY 2013/14 Revenue	% of Total Revenue
Application	\$250	\$250	\$907	\$910	\$969	\$1,162	11%
Exam	\$25/\$50 ¹	\$75/\$600 ¹	\$1,642	\$1,620	\$1,694	\$2,997	29%
Initial Permit	\$50/\$25 ²	\$250/\$125 ²	\$555	\$347	\$341	\$482	5%
Biennial Renewal	\$50	\$250	\$7,801	\$4,963	\$4,920	\$5,116	50%
Delinquent Biennial Renewal	\$25	\$125	\$324	\$244	\$221	\$199	2%
Certification	\$25	\$25	\$38	\$40	\$35	\$25	.34%

¹ The CPA Exam scheduling fee is \$50 for first time applicants. Fees for applicants who are repeat candidates are \$25.

² The initial permit fee of \$50 is equal to the biennial renewal fee. However, if the permit is issued for a period of one year or less, the initial permit fee is only 50 percent of the standard biennial renewal fee.

Currently, the initial permit fee for CPAs is \$50 and the biennial renewal fee is \$50. During the last 10 years, fees have been reduced twice. All fee reductions were based on the need to manage the size of the reserve. The fee reduction implementation years as well as fee changes are as follows:

- FY 2011-12 – A four-year temporary fee reduction related to: license fee (\$200/\$120); prorated license fee (\$100/\$60); license renewal (\$200/\$120); delinquent license renewal (\$100/\$60).
- FY 2014-15 – A two-year temporary fee reduction relating to CPA licensure application (\$250/\$50); examination application (\$100/\$50 and \$50/\$25); license fee (\$120/\$50); prorated license fee (\$60/\$25); license renewal (\$120/\$50); delinquent license renewal (\$60/\$25). Fees revert back to FY 2013-14 levels in FY 2016-17 unless further action is taken by the CBA.

Staffing Levels

Currently, the CBA is authorized to hire 82.9 permanent positions and 11 limited term positions. It should be noted that the CBA has the ability to hire retired annuitants (RA), which are not considered permanent positions. There are five (5) RA positions authorized by the CBA. Currently, there are six (6) vacant positions, representing a six (6) percent vacancy rate (and one vacant RA position). The Enforcement Program has 27.5 permanent positions, 3 of which are vacant, 11 limited term positions, and 1 RA Associate Governmental Program Analyst position which is vacant. The Investigative Units of the Enforcement Program currently has 14 authorized Investigative CPA positions (and 1 RA Investigative CPA position), all of which are filled.

Licensing

The following is a breakdown of the population of licensees and licenses regulated by the CBA for the past four years:

Licensee Population¹					
		FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
Certified Public Accountant (CPA)	Active	48,146	50,308	51,988	54,165
	Out-of-State	5,017	5,207	5,441	5,672
	Out-of-Country	659	694	730	748
	Delinquent	7,286	7,466	7,442	8,166
Public Accountant (PA)	Active	42	32	27	22
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	77	70	60	46
Accountancy Partnership (PAR)	Active	1,327	1,336	1,339	1,356
	Out-of-State	48	49	48	46
	Out-of-Country	0	0	0	0
	Delinquent	153	69	82	94
Accountancy Corporation (COR)	Active	3,341	3,480	3,562	3,677
	Out-of-State	35	36	37	38
	Out-of-Country	0	0	0	0
	Delinquent	380	220	255	291
Fictitious Name Permit (FNP)	Active	1,696	1,535	1,679	1,857
	Out-of-State	18	19	21	21
	Out-of-Country	0	0	0	0
	Delinquent ²	1	89	88	87
Out-of-State Accounting Firm Registrations ³	Active	--	--	--	209
	Out-of-State	--	--	--	209
	Out-of-Country	--	--	--	0
	Delinquent	--	--	--	0

¹ This table was not designed to reflect the population of licenses in an inactive status, and therefore, such licenses are not reflected in the table.

² The increase in the number of FNPs in a delinquent status from FY 2010-11 is the result of a programming error in CAS. The system does not automatically role FNPs to a delinquent status upon the FNP's expiration date. When the error was discovered, the CBA began performing the task manually.

³ The Out-of-State Accounting Firm registration was implemented on July 1, 2013 as a result of the passage of SB 1405 (Chapter 411, statutes of 2012). All firms holding this registration are located out-of-state.

The CBA issues CPA and accounting firm licenses, in addition to issuing fictitious name permits (a form of registration). On average over the past four fiscal years, the CBA issued 3,829 CPA and accounting firms licenses, and 131 fictitious name permits per year.

As for license renewals, on average over the past four fiscal years, the CBA has renewed 40,111 CPA and accounting firm licenses, and 88 fictitious name permits per year.

The CBA maintains a 30-day application processing timeframe for all four program areas within the Licensing Division – Examination, Initial Licensing, Renewal and Continuing Competency, and Practice Privilege. This processing timeframe has been in place for the Examination and Initial Licensing Unit since approximately 2009. The processing timeframe associated with the Practice Privilege Unit is relatively new, as it resulted from a new accounting firm registration requirement that took effect July 1, 2013.

As for the RCC Unit, the CBA only recently established the 30-day processing timeframe for the review of license renewal applications. Beginning January 2014, the RCC Unit began tracking the processing timeframes on a weekly basis.

The Licensing Division is meeting its goal of processing applications at or below its established 30-day processing timeframes for all units.

The number of CPA Exam applications has stayed relatively constant for the past three fiscal years. The timeframe for processing CPA Exam applications has remained consistent between 20-24 days. The timeframe for administering the CPA Exam has not changed, as California candidates have the ability to sit for the CPA Exam six days per week at hundreds of locations throughout the United States.

On July 1, 2013 new statutory provisions associated with the Practice Privilege Program for out-of-state licensees took effect. Under the new law, CPAs licensed in jurisdictions recognized by the CBA as having “substantial equivalent” licensure standards may practice in California under the CBA’s “practice privilege” criteria without any notice or fee requirements. Otherwise, out-of-state licensees must obtain permission from the CBA in order to practice in California if they have experienced any specific events within the prior seven years, and all practice privilege holders practicing in California must self-report any change in conditions that disqualify them. One of the new provisions instituted a new registration requirement for out-of-state licensed accounting firms that want to perform certain specified services for California-headquartered entities. In FY 2013-14, the CBA issued 209 Out-of-State Accounting Firm registrations.

Continuing Education/Competency Requirements (CE)

CPAs/PAs electing to renew in an active license status must certify to the completion of 80 hours of qualifying CE in the appropriate subject matter in the two-year period immediately preceding the license expiration. The overriding consideration in determining whether a specific program qualifies as acceptable CE is that it must be a formal program of learning which contributes directly to the professional competence of a licensee in public practice.

The 80-hour requirement is for all licensees with the exception of new licensees and licensees who convert their license status from an inactive to an active license status (status conversion) during the two-year period immediately preceding license expiration. These licensees are required to document

20 hours of qualifying CE in the appropriate subject matter for each full six-month period of active licensure. Additionally, if fewer than 80 hours of CE is required for license renewal, the four-hour fraud CE and four-hour ethics education CE requirements do not apply. Licensees who do not intend to practice public accountancy but wish to maintain their license may renew the license in an inactive status with no CE required. To renew as inactive, the licensee must submit the license renewal application and fee to the CBA on or before the license expiration date. Licensees with a license in an inactive status may not practice public accountancy in California.

To verify CE has been taken by the licensee, the CBA has both a CE Review and CE Verification program to verify the completion of CE and other competency requirements. The CE Review program is completed during staff's review of all license renewal applications. It requires CBA staff to examine each license renewal application in order to ensure that the CE reported and self-certified by the licensee on the CE Reporting Worksheet complied with all regulations and requirements. Under the CE Verification program, which occurs subsequent to CE Review, licensees are randomly selected (about 75 each month) to submit documentation substantiating the completion of appropriate CE as reported and self-certified on the license renewal application. Once all of the required documentation is received, CBA staff confirms that the CE was accurately reported, completed, and conformed to all laws and rules.

The CBA does not pre-approve or register CE providers or CE courses, with the exception of the required Regulatory Review course, which is pre-approved by the CBA. It is the responsibility of each licensee to select acceptable CE courses which fulfill all the requirements provided in the CBA regulations. The CBA has a long history of evaluating these regulations and requirements for CE to ensure the overall outcome is meaningful education that contributes to the licensees' ability to practice public accountancy.

Mandatory Peer Review Requirement

In 2010, the CBA's mandatory peer review requirement for accounting firms, including sole practitioners, who provide accounting and auditing services, took effect. While not classified as CE, peer review is a key component the CBA believes is important to ensure the continuing competency of personnel within accounting firms. Peer review is a study, appraisal, or review of the accounting and auditing work of a firm by a licensed CPA who is unaffiliated with the firm being reviewed, and is done in accordance with applicable professional standards. The goal of peer review is to promote quality accounting and auditing services provided by accounting firms, thereby enhancing the products received by consumers. In many ways, as the CBA argues, this is one of the ultimate forms of performance-based continuing competency.

According to the CBA, with ongoing changes to generally accepted accounting principles, designed to ensure the accuracy and quality of accounting and auditing engagements, it is imperative that products and services provided to consumers meet adopted professional standards. Accounting firms going through the rigor of peer review are better equipped to perform quality accounting and auditing engagements. Through preparing for and undergoing a peer review, firms can design internal quality control systems to ensure work is performed to professional standards. The experience and expertise offered by a peer reviewer is value added. This is especially beneficial to small firms and sole proprietors, better enabling them to deliver high quality products and services to their clients, thereby better protecting California consumers.

Enforcement (Meeting Performance Measures/Target Dates)

The CBA has adopted the DCA (CPEI) performance measures as a benchmark for its Enforcement Program. The CBA presently meets four of its five performance measures, including *Intake* - the average cycle time from complaint receipt, to the date the complaint is assigned for investigation, *Intake Through Investigation* - the average cycle time from complaint receipt to closure of the investigation process, *Probation Intake* - the average number of days from the time a monitor is assigned, to the date the monitor makes first contact with the probationer, and *Probation Violation Response* - the average number of days from the date a violation of probation is detected, to the date the assigned monitor initiates appropriate action. The CBA has met and exceeded these four established benchmarks over the past four fiscal years. Moreover, it has met these performance measures even though it has experienced a dramatic increase in the number of complaints received since its last sunset review. Specifically, the CBA has seen a 281 percent increase in its complaints received volume when comparing FYs 2010/2011 and FY 2013/2014.

As indicated by the CBA, while the Board does not currently meet the performance measure for Formal Discipline and its associated benchmark of 540 days (it currently takes on average approximately 813 days or 2.2 years), the volume of investigations that proceed to formal discipline has increased from 22 in FY 2010/2011 to 58 in FY 2012/2013. The investigations that proceed to formal discipline are the most complex and carry the potential to have the greatest impact on consumers. Additionally, during the same period, the number of investigations closed increased from 464 to 2,870, respectively. It should also be mentioned that the increase in the number of investigations (600 to 2,951) is primarily the result of new legislative consumer protection mandates, and not the result of increased consumer complaints. Consumer complaints have remained relatively constant in each of the four fiscal years: 439, 428, 411, and 368, respectively. The number of citations issued has increased for each of the previous four fiscal years from 30, 908, 1,883, and 1,522, respectively. This increase is, in large part, due to licensees' non-compliance with new legislative mandates such as peer review.

The CBA further indicates that the Board works to close all cases as expeditiously as possible. Upon conclusion of the investigation, the matter is referred to the AG's Office for preparation and filing of a pleading which takes, on average, 160 to 190 days. After the filing of a pleading, it takes an average of 170 to 204 days to resolve a matter via a stipulated settlement, or 325 to 379 days to resolve a matter via a formal OAH hearing. If the matter is set for hearing, the wait to secure a hearing date from OAH can exceed one year and can consume approximately two-thirds of the performance measure time. These indirect, but unavoidable, timeframes with the AG and OAH impact the timeframe in which formal disciplinary cases are resolved.

Further, there are cases in which the CBA adopts formal discipline, and the licensee petitions for reconsideration due to their dissatisfaction with the final disciplinary order. If the licensee is not satisfied with the CBA's reconsideration, they have the ability to appeal the decision to the California Superior Court and potentially the California Supreme Court. During all of these post-adoption appeals, the case remains open and all of the appeal time is added to the performance measure.

To address the delays experienced at the AG's Office and OAH, the CBA adopted Objective 1.4 as part of its *2013-2015 Strategic Plan*. This objective focuses on reducing timeframes by working collaboratively with the AG's Office to improve the overall process. The CBA has implemented strategies for streamlining its processes which include:

- Providing the DAG with settlement terms at the time the accusation/statement of issues is served on the Respondent.
- Working with the DAG to have the matter placed on the OAH's calendar for hearing immediately when settlement does not appear a viable option.
- Preparing the default decision immediately when a licensee fails to file a Notice of Defense.

As for those factors within the CBA's control, CBA senior management has indicated that they have taken aggressive steps to improve program efficiencies. The proactive efforts have allowed the CBA to meet and exceed the majority of its performance measures, and reduce the timeframes associated with investigations that proceed to formal discipline, all while experiencing a significant increase in the volume of complaints received.

In addition to process improvements, the CBA has taken additional steps with respect to staffing and oversight. The CBA has successfully filled all Investigative CPA (ICPA) positions that had previously been classified as "hard-to-fill." This was done through streamlining the examination process and offering ICPAs the opportunity to work remotely at locations throughout California.

Additionally, CBA management indicated that they have implemented several increased oversight and monitoring processes. CBA management works with staff to triage incoming cases, prioritize cases, and ensure cases are moving through the enforcement process timely according to the identified internal benchmarks. Further, CBA management holds frequent meetings with staff to provide guidance, group discussion and interaction regarding cases, processes, and best practices. Finally, the CBA employs tracking reports that provide further information to assist management with overseeing the CBA's case inventory.

In the future, the CBA anticipates further reduction in processing timeframes via the following:

- Increasing field investigations: ICPAs will conduct field investigations on licensees that fail to respond or delay their responses to Enforcement inquiries. Currently, a licensee that is contacted via phone or mail has a greater opportunity to delay an investigation by not complying with or responding to the CBA's requests. These delays require additional time and resources (including issuance of a subpoena, or requiring an appearance at an investigative hearing) in order to gain compliance. Having the resources to routinely engage in field investigations will significantly improve efficiency and allow cases to result in a more expedient resolution.
- Isolating CORI activities: The CBA proactively created a temporary Criminal Offenders Record Information (CORI) Investigations Unit. Approximately 27,700 CBA licensees will be required to submit their fingerprints to the DOJ over the next two years. By creating the CORI unit at the onset, investigations stemming from those licensees with a criminal conviction that has not been previously disclosed to the CBA, or that fail to be fingerprinted, will be handled by dedicated staff and should not impact the current enforcement case inventory.
- Hiring additional ICPA staff: Effective July 1, 2014 the CBA was granted the authority to hire an additional six permanent and two limited-term ICPA staff. These positions have all been filled, with training near completion. Following recruitment and training, the additional ICPAs

will work on the existing and new complaints while continuing with proactive efforts to ensure consumer protection.

The CBA argues that with the aforementioned process improvements, they will be well equipped to meet DCA performance measures and further the CBA's primary mission of consumer protection.

Public Outreach and Education

The CBA indicates that it maintains a comprehensive, resource-rich website, <http://www.cba.ca.gov>, as a primary platform to keep the public informed of CBA activities. In addition, the CBA maintains a robust social media presence, using Facebook, Twitter, Pinterest and LinkedIn to widen its reach and drive traffic to its website. The public may also subscribe to the CBA E-News, an email notification system which includes meeting notices and meeting materials. The CBA also incorporates links to the CBA website and social media pages on outgoing email, enabling the recipient to instantly access these CBA consumer resources. The CBA provides a consumer section on the homepage of its website, where the public may access numerous consumer resources, including information on how to use License Lookup, advice on selecting a CPA, the lists of pending accusations, disciplinary actions and license restrictions, citations, and pending CBA decisions and opportunities for public participation.

In terms of its meetings, the CBA posts meeting materials on its website at least 10 days in advance of the meetings. In order to maintain accessibility of CBA meeting materials, all meeting materials are permanently available electronically on the website for interested parties to download as needed. The CBA webcasts CBA meetings as required by BPC section 5017.5. Additionally, the CBA webcasts meetings of committees in which CBA members participate and maintain a permanent archive on its website for future viewing. The committees which are webcast include the LC, CPC, EPOC, MSG, TEEL, the Strategic Planning Committee, ECC, and AEC. The CBA also posts draft meeting minutes with the next meeting's materials. Once the CBA approves the minutes, final minutes are posted to the CBA website within 10 days.

As to the posting of accusations and disciplinary actions against its licensees, the CBA provides this information as specified in the DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure* and consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions*.

The CBA also provides the public with a wide variety of information regarding its licensees in order to enhance the consumer's knowledge and understanding when selecting and using the services of a CPA, or when filing a complaint against a CPA. An entire section of the CBA website homepage is dedicated to consumers, and includes such information as how to use the License Lookup feature, how to select a CPA, and the CBA's *Consumer Assistance Booklet*. Such information is also made available through social media and the distribution of press releases. Also provided on the CBA website under its License Lookup feature is the following information for every licensee:

- the status of the license
- the licensee's address of record
- whether a licensee has the authority to sign reports on attest engagements
- pending accusations
- citations
- disciplinary actions and license restrictions

PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

The CBA was last reviewed by the Senate Business, Professions and Economic Development Committee in 2011. At that time, this Committee raised nine issues with several recommendations. The following are actions that the CBA took over the last four years to address many of these issues. Those items which were not addressed and which may still be of concern to the Committee, as well as some more current issues for the CBA, are addressed and more fully discussed under the “Current Sunset Review Issues” section of this Paper.

On November 1, 2014, the CBA submitted its required sunset report to the Committee. In this report, (which was actually completed on June 30, 2014) the CBA described actions it has taken since its prior review to address the issues and recommendations of this Committee. The CBA addressed all of the nine issues raised by this Committee and attempted to comply with the recommendations of this Committee. The following are some of the more important programmatic and operational changes and enhancements which the CBA has made, and other important policy decisions or regulatory changes undertaken, since the prior sunset review of the CBA:

- In order to meet changing needs and shifting priorities of the CBA, the CBA Executive Officer has, as necessary and warranted, reassigned staff from one unit to another in order to meet operational needs incurred from changes such as the new educational requirements, and created a new CORI Unit and a Discipline and Probation Monitoring Unit in the Enforcement Division. In addition to these reorganization efforts, the CBA will be adding 18 new positions to its organization chart in FY 2014-15. All but one of these positions are for the Enforcement Division. Several of the positions are in a new CORI Unit to handle the CBA’s new retroactive fingerprinting requirement. Of these 18 positions, 11 are limited term.
- Developed with the assistance of the CBA’s Strategic Planning Committee, the CBA adopted its *2013-2015 Strategic Plan* which updated the previous *2010-2012 Strategic Plan*. The new plan outlines seven goals related to enforcement, customer service, licensing, outreach, laws and regulations, emerging technologies, and organizational effectiveness.
- The CBA has also prepared a *Workforce and Succession Plan* to prepare for various staff retirements and turnover. Part of this process involved a rotation of licensing managerial assignments to foster cross-training and prepare first-level management for possible future job opportunities in senior management.
- The CBA created a retired status for CPAs in July 1, 2014.
- The TEEL was formed to evaluate California’s experience requirement for licensure and determine what modifications, if any, should be made to the present requirement, paying close attention to the CBA’s mission to protect consumers.
- The CBA completed its legislatively mandated Peer Review Report. This report was required pursuant to BPC section 5076 and was to be provided to the Legislature by January 1, 2015.
- In 2009, the Legislature required the establishment of two committees to aid the CBA in developing guideline for the additional 30 semester units of education which would be necessary to obtain licensure beginning on January 1, 2014. The Ethics Curriculum Committee

(ECC) was tasked by the Legislature to develop guidelines for 10 semester units of ethics study. The Accounting Education Committee (AEC) was tasked to develop recommendations for guidelines to the remaining 20 semester units of accounting study. In July 2011, the CBA reviewed the recommendations of the AEC and the ECC and those recommendations adopted by the CBA became the basis for regulations in 2011.

- On July 1, 2013 new provisions associated with the Practice Privilege Program took effect. One of the new provisions instituted a new registration requirement for out-of-state licensed accounting firms that want to perform certain specified services for California-headquartered entities. In FY 2013/2014, the CBA issued 209 Out-of-State Accounting Firm registrations.
- The CBA implemented retroactive fingerprinting which will require all licensees who do not have fingerprints on file with the Department of Justice to do so when they renew their license. The CBA's fingerprint regulations were approved in December 2012, allowing the CBA a full year to notify licensees of the new requirement which went into effect on December 31, 2013. The CBA created CORI in order to manage the anticipated increase in caseload so as to not impact the processing timeframes of the existing enforcement caseload.
- The CBA was not tracking applicants for licensure who are veterans, but with recent legislation, that requires by January 1, 2015 that every application for licensure to include if the licensee is serving in, or has previously served in the military, the CBA has amended its application and will now track applicants who are veterans.
- Made substantial changes to its continuing education and competency requirements including the need to report peer review information at the time of license renewal.
- Made changes to its enforcement program to improve its timeframes on the handling of disciplinary cases and to address delays at the AG's office and OAH.
- Beginning June 2009, the Continuing Education Audit Program was reinstated to ensure that licensees are complying with CE requirements.
- The CBA is in Phase 3 of the BreEZe project and has been actively monitoring and, when appropriate, participating in the BreEZe development. Since the early conceptual stages of exploring a replacement to the existing system, the CBA has been responsive and engaged in providing all necessary information to make any replacement a success. To ensure the transition is successful, the CBA has recruited and begun preliminary training of temporary staff to assist in these areas. These staff have already started working on data cleanup in the CBA's legacy systems and will be able to assist with all duties and functions when permanent CBA staff are redirected to BreEZe for Phase 3 transition. The CBA's primary goal is twofold; 1) ensure BreEZe is operational and provides the necessary functionality for the CBA to serve its stakeholders, and 2) ensure there is no lapse in service to CBA stakeholders during the transition to the BreEZe system.

CURRENT SUNSET REVIEW ISSUES

The following are unresolved issues pertaining to the CBA, or areas of concern for the Committee to consider, along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The CBA and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

LICENSING AND PRACTICE ISSUES

ISSUE #1: (CBA'S PEER REVIEW PROGRAM.) Should the CBA's Peer Review Program (PR Program) be continued?

Background: The CBA has examined and considered peer review as an important topic for professional improvement and oversight of CPA's since 2000. The CBA organized a Peer Review Task Force that held public meetings between 2002 and 2003, concluding with an interim peer review report that was provided in its *2003 Sunset Review Report*. The interim peer review report requested additional time to evaluate peer review, and an extension of time to submit a final peer review report in 2005.

Continuing in 2004, and completing in the middle of 2005, the CBA's Peer Review Task Force resumed work on peer review. At the conclusion of the Peer Review Task Force's meetings, the CBA issued its *2005 Peer Review Report*. This report supplemented the 2003 interim report and provided updated information and analysis pertinent to whether peer review should be mandated in California. The 2005 report concluded with a recommendation to delay implementing mandatory peer review and offered several recommendations related to future CBA consideration of peer review.

Between May 2007 and September 2008 the CBA began re-examining the merits of implementing a mandatory peer review program in California and reviewing recommendations outlined in the *2005 Peer Review Report*. During this time the CBA held several public meetings in an effort to pursue potential legislative action in the 2009/2010 Legislative Session. Over the course of these meetings, the CBA evaluated issues that included, among others, participation, program oversight, and program administration. These meetings resulted in the issuance of the CBA's *2008 Peer Review Report*. This report outlined the history of the CBA's consideration of peer review, a review of policy issues considered by the CBA during these meetings, and a discussion on the need for mandatory peer review.

The CBA believed that a mandatory peer review program would have significant benefits to the California accounting profession. First, improving the services provided by California-licensed Firms. Firms going through the rigor of peer review would be better equipped to perform quality accounting and auditing engagements. In an ever-changing financial climate and with constant updates to generally accepted accounting principles and auditing standards, it is imperative that work products provided to consumers adhere to adopted professional standards. Firms preparing for and undergoing a peer review would be able to refine and improve internal systems to ensure work products meet professional standards, as well as develop and refine the technical skills of their employees.

Second, mandatory peer review would help to increase consumer confidence, which is paramount to a healthy economy, both on a state and national level. In part, this is achieved when consumers feel that firms providing accounting and auditing services do so in accordance with the highest level of professional standards. By requiring peer review, the CBA believed it would demonstrate its commitment to enhance the quality of services provided by CPAs and accounting firms, which, in turn, would contribute to the public's increased trust in the accounting profession.

Finally, and most importantly as indicated by the CBA, peer review would provide increased consumer protection. Firms meeting minimum professional standards, but that could benefit from increased education and training would be required to complete specified remedial or corrective actions, such as continuing education. Firms determined not to have met minimum professional standards would receive substandard reports, which as noted earlier, require submission of the reports to the CBA to determine if CBA action is appropriate or necessary.

As the result of this extensive consideration of peer review, the CBA elected to sponsor legislation – AB 138 (Chapter 312, Statutes of 2009) – which, on January 1, 2010, implemented a mandatory peer review program for California. AB 138 required firms, including sole proprietorships, that provide audit, attest, or compilation (accounting and auditing) services to undergo a systematic review (peer review) to ensure that work performed conforms to professional standards. Peer review is required for these firms every three years as a condition for license renewal.

The CBA established a phase-in period for undergoing and reporting peer review information. Firms with a license number ending in 01-33 were required to report peer review-related information no later than July 1, 2011; Firms with a license number ending in 34-66 were required to report peer review-related information no later than July 1, 2012; and Firms with a license number ending in 67-00 were required to report peer review-related information no later than July 1, 2013. (It should be noted, that as of January 1, 2014, the reporting date was changed to coincide with the expiration date of the license. A Peer Review Reporting Form is now included in the licensee renewal application.)

Since the inception of the PR Program, peer reviews have been performed by CPAs knowledgeable in generally accepted accounting principles and generally accepted auditing standards. At this time, the CBA only recognizes the AICPA as an approved peer review program provider. (It should be noted, however, that the CBA could allow for other peer review program providers that meet certain criteria.) The AICPA oversees the program and the actual review is administered by an entity, typically a state CPA society, approved by the AICPA to perform that role. The California Society of CPAs (CalCPA) is the largest administering entity of the AICPA peer review in California. CalCPA also administers the program in Arizona and Alaska. Firms are required to enroll in the CBA-recognized peer review provider's program, which works with firms to: (1) select peer reviewers with knowledge of the professional standards related to the type of practice to be reviewed; (2) review and accept peer review reports; and, (3) ensure timely completion of the peer review process. The firm pays the peer reviewer for their services directly, thus ensuring no further administrative costs to the CBA or the licensee. Peer review reports are given a rating of either pass, pass with deficiencies, or substandard. Once the peer review is completed it is submitted to the CBA. For firms that receive a substandard peer review rating, they must provide the report to the CBA within 45 days. Additionally, the administering entity is required to submit all peer review reports to the CBA within 60 days. These reports will be reviewed by the CBA's Enforcement Division to determine if CBA action is appropriate. Since the beginning of the peer review reporting period, the CBA has instituted proactive measures to ensure that accountancy firms, including sole proprietors, are properly reporting and, if necessary, undergoing peer

review and will take enforcement actions against a firm or CPA where there is a finding of failing to properly report or undergo a peer review.

The Legislature also established the Peer Review Oversight Committee (PROC) pursuant to BPC section 5076.1. The PROC is comprised of seven members and its purpose is to provide recommendations to the CBA on any matter upon which it is authorized to act to ensure the effectiveness of mandatory peer review.

As part of CBA's Peer Review Program, data was collected on the PR Program from its effective date through the three-year phase-in from January 1, 2010 to December 31, 2013. In order to gather the requested information pursuant to BPC section 5076, the CBA relied on three sources of information: the Peer Review Reporting Form, an optional survey, and CalCPA. The optional survey was not completed by every firm subject to peer review, and those that filled it out did not answer every question. There were 3,737 surveys submitted out of 6,854 completed peer reviews. Although the CBA indicates that "this sample size affords a solid basis for the conclusions reached in this report," we question whether the "optional survey" really provides a solid basis for conclusions about the success of the peer review program.

The CBA contends that mandatory peer review of firms has enhanced consumer protections in two critical areas. First, it helps to educate firms by testing their accounting and auditing services compared to professional standards. However, less than half (46 percent of firms) actually indicated that peer review helped to improve their overall services to their clients and only 39.5 percent indicated they made changes that improved their processes as a result of undergoing peer review. Also, the CBA indicates that it has the authority to pursue enforcement actions against firms receiving substandard peer reviews and argues that its investigations of 560 firms, out of the 6,854 peer reviews completed, and its subsequent identification of 30 firms showing significant departures has also enhanced consumer protection. However, of these 30 firms (out of 6,854 peer reviewed) it is still unknown what action is being taken by the CBA. It was just indicated that their "entire practices" were being further investigated. It does not appear as if any cases have been referred to the AG.

In terms of small firms and sole practitioners, the results were similar with 51 percent indicating they found peer review beneficial and 47 percent indicating they would make changes. What was interesting was that 26 percent of these small firms and sole proprietors indicated they would no longer provide services that subject them to peer review.

It should be noted that the PROC only reviewed 339 of the voluntary surveys with "written comments" received up to September 18, 2012, to reach their conclusions about the success of peer review for the profession. However, from those responses received, only about one-third of those reviewed made favorable comments about the mandatory peer review program; that it was educational, helpful and a necessity to maintain the quality of firms practicing public accounting.

In terms of enforcement actions initiated by the CBA, there were 560 substandard peer review reports received from 2010 through 2013. The CBA initiated investigations on all 560 firms that received a substandard rating on their peer review report to determine whether there was a significant departure from professional standards to warrant enforcement action by the CBA. Enforcement action may include additional continuing education courses, citation and fine, or referring the matter to the AG for the filing of an Accusation. These investigations have led to 30 cases where there was a significant departure from professional standards was identified where further investigation was warranted.

According to the CBA, these 30 investigations are currently ongoing as the scope of inquiry has expanded beyond just the peer review report to cover these firms' entire practices as well. (It should be noted, that firms are also recommended to take corrective actions rather than receiving a substandard report. Of the 6,854 peer reviews completed, 1,395 firms were recommended to take corrective actions by the administering entity. The corrective action recommended is typically educational in nature with the vast majority being the assignment of additional continuing education.)

The CBA argues that the data supports the conclusion that the mandatory peer review program is clearly enhancing consumer protection and leading to improvements in the services that firms are providing to their clients. The initial results of the Peer Review Report call into question whether peer review is really as beneficial to the profession as indicated, especially the small firm and the sole proprietor, whether the CBA is as aggressive as it could be in pursuing actions against substandard firms, and whether ultimately consumers are benefitting directly from the peer review requirement. It should be noted that according to the CBA, the average costs of peer review are \$2,705 and the cost to firm's undergoing peer review is a very broad range from \$100 to over \$100,000; costs that may ultimately be passed on to the consumer. The CBA did indicate, however, that 90 percent of firms indicate that they did not raise their fees to offset the costs and that the remaining 10 percent only raised their fee by approximately 14 percent.

Staff Recommendation: *The PR Program of the CBA should be continued. However, in the meantime the CBA should attempt to do a more thorough analysis of the benefits of the PR Program and provide a report to the Legislature by November 1, 2018. The CBA may want to work more closely with the CalCPA and AICPA in determining how to survey the profession regarding the benefits of peer review and the survey should be completed by all who are required to participate in peer review. The CBA should also provide information to the respective Committees of action they are taking against firms that have been identified as providing substandard peer review reports.*

ENFORCEMENT ISSUE

ISSUE #2: (IT APPEARS AS IF THE DISCIPLINARY CASE MANAGEMENT TIMEFRAME IS TAKING ON AVERAGE ABOUT TWO YEARS OR MORE.) What steps is the CBA taking to try and reduce its average disciplinary case timeframe so as to meet its target date of 540 days?

Background: It takes on average about 2 years from the receipt of a complaint by the CBA to the final disciplinary action of the Board. While the CBA does not currently meet the 540-day performance measure associated with final discipline, it has seen improvements in the timeframes associated with this measure. The discipline performance measure metric has steadily decreased over the past four fiscal years from an annual average of 924 days in FY 2010/2011 to 888 days in FY 2011/2012, to 835 days in FY 2012/2013, to 813 days in FY 2013/2014. This is a decrease of 12 percent while at the same time increasing the volume of referrals to and filings by the AG's Office. The CBA will continue to work internally and externally to reduce investigative timeframes and work cooperatively with outside agencies to identify and reduce inefficiencies. With the addition of new ICPA positions, the CBA expects to further decrease its investigative time and be closer to DCA's Formal Discipline performance measure by the time of its next sunset review.

Over the past four years, the CBA has experienced a twofold barrier to meeting its target date of 540 days: (1) external factors associated with the OAH, AG's Office, and appeals and (2) internal factors associated with outdated processes and staffing resources.

On average, the AG's Office takes approximately 160-190 days to prepare and file the pleading, while the OAH takes approximately 325-379 days to schedule and render a decision on matters that proceed to a formal hearing. This means that the combined time spent at the AG's Office and OAH can exceed the Formal Discipline performance measure of 540 days. Even at the low ends of these timeframes which are outside of the CBA's control, less than two months are left in the performance measure for the CBA to perform an investigation.

Beginning with the external factors, and those specific to the OAH, this is a barrier that appears wholly outside the CBA's ability to address. The CBA must wait for OAH availability to calendar and schedule matters for hearing. As for external factors associated with the AG's Office, the CBA has taken proactive steps to work with the AG's Office, including adopting a goal in its *2013-2015 Strategic Plan* (Objective 1.4) focused on reducing timeframes by working collaboratively with the AG's Office to improve the overall process. CBA senior management has worked with the assigned DAG liaison to develop strategies for streamlining the process which include:

- Providing the DAG with settlement terms at the time the accusation/statement of issues is served on the Respondent.
- Working with the DAG to have the matter placed on the OAH's calendar for hearing immediately when settlement does not appear a viable option.
- Preparing the default decision immediately when a licensee fails to file a Notice of Defense.

As for internal factors, the CBA took a two-pronged approach to address this issue: (1) evaluated its outdated processes to increase efficiencies and best practices, and (2) requested additional resources after taking steps to ensure that improvements in the overall process were in place. This has included:

- Revised duty statements to use enforcement analysts to perform more investigation-related work. The expanded use of analytical staff has proven effective and allows the ICPAs to concentrate on those cases that require the expertise and knowledge of a licensed CPA.
- Provided enhanced training to all enforcement staff. Enforcement staff now attends a nationally recognized training program – Council on Licensure, Enforcement, and Regulation National Certified Investigator Training – and the DCA Enforcement Academy that focuses on internal performance targets and measures.
- Established internal benchmarks for each step of the enforcement process, beginning with issuance of the initial complaint acknowledgement letter to completion of the investigative report.
- Revised the investigation intake process to streamline the intake and triage of complaints.
- Instituted target dates for completing technical and non-technical cases. Changed the CBA process for referring investigations to the AG's Office, including modification of the CBA

Investigative Report for easier review by the assigned Deputy Attorney General (DAG) and faster preparation of pleading documents.

- Established a sole point of contact at the CBA for all disciplinary matters and created a stand-alone email account to streamline the communication between the assigned DAG and the CBA.
- Provided an electronic copy of investigative reports and related documents to the AG's Office as opposed to a paper copy, which allows the assigned DAG to more quickly incorporate facts and exhibits into their OAH files.

Once these new processes were established in 2012 and 2013, the CBA evaluated its future resource needs and submitted BCPs commensurate with those needs. Even with the new staffing resources, the CBA indicates that it will continue to monitor, evaluate and update its processes in order to maximize efficiencies.

Staff Recommendation: *It does not appear as if the CBA will be able to meet its goal of reducing the timeframe for the handling of its disciplinary cases to 540 days unless the AG and OAH can also reduce their timeframes for prosecuting and hearing cases. However, the CBA appears to be making a concerted effort to reduce its timeframes and processing of cases that are under its direct control. The CBA should continue with these important efforts and changes that they are making to meet its target dates for the processing, investigation and referral of cases to the AG.*

ISSUE #3: (PERMANENT PRACTICE RESTRICTIONS) The CBA should be permitted to include permanent practice restrictions as part of a disciplinary order rather than seek a complete license revocation of the licensee.

Background: The CBA has the authority to revoke, suspend, or refuse to renew any permit or certificate, or censure the holder of that permit or certificate due to unprofessional conduct. Over the years the authority (BPC section 5100) has been modified, with the last substantive change occurring in 2005 when the Legislature took steps to further clarify the meaning of dishonesty, fraud, and gross negligence contained in the provision, as well as add the following to unprofessional conduct: unlawful practice of public accountancy in another state, and the imposition of any discipline, penalty, or sanction on a licensee by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission. This provision, however, does not presently allow the CBA, and Administrative Law Judges (ALJ), the authority to consider including permanent practice restrictions. Currently, practice restrictions may only be imposed beyond the probationary term when specifically agreed to by the licensee via a stipulated settlement. Some circumstances may warrant permanent practice restrictions in order to protect the public; however, if the licensee is unwilling to agree to such terms via a stipulated settlement, the only recourse for the CBA is to seek revocation of the license. This change would allow the CBA, and ALJs, to include permanent practice restrictions as part of a disciplinary order, as opposed to seeking a complete license revocation, and permit the licensee to retain a license and be able to practice and earn income in such areas where competency is not compromised.

Staff Recommendation: *BPC section 5100.5 should be added to the Accountancy Practice Act to allow the CBA, and ALJs, to include permanent practice restrictions as part of a disciplinary order, while still permitting the licensee to retain a license to practice in such areas where competency is not compromised.*

BUDGET ISSUE

ISSUE #4: (SHOULD THE CBA PROVIDE FOR AN ADEQUATE RESERVE LEVEL IN ITS ACCOUNTANCY FUND.) The CBA should consider maintaining an adequate reserve level in its contingent reserve fund equal to or slightly less than 24 months of estimated annual authorized expenditures.

Background: The CBA historically had problems with maintaining its contingent fund reserve balance to the statutory requirement that it not exceed the required months of estimated annual authorized expenditures. Section 5134 (f) of the Business and Professions Code previously required the Board to fix the biennial renewal fees so that the Board's reserve was approximately equal to nine months of authorized expenditures.

The nine-month requirement was eliminated through the passage of the budget in 2011 (SB 80, Committee on Budget and Fiscal Review, Chapter 11, Statutes of 2011). The CBA is still mandated by BPC section 128.5 to maintain its reserve so that it does not exceed 24 months of expenditures. The CBA temporarily reduced its fees in FY 2011/2012, and a further reduction to the fees started in FY 2014/2015. These are proactive measures the CBA took to reduce its reserves to only what it considers necessary levels for operation. As of June 30, 2014, the reserve level was 12.7 months and as of December 31, 2014, the reserve level was at 9.7 months. In addition, the CBA anticipates that the outstanding loans to the General Fund will be repaid before its next sunset review. Once these loans are repaid, the reserve will be approximately \$40 million. The CBA will be faced with decisions on how to reduce this reserve. As specific repayments enter the budget negotiations, the CBA indicates that it will review the information and establish a plan for reducing the reserve. Because the CBA does not know specifically when the loans will be repaid or the amount to be repaid in a given year, the CBA will examine various strategies that provide flexibility in addressing the issue. BPC section 128.5 requires that any solution includes a reduction in fees. However, with the temporary fee reduction that went into effect for a two-year period beginning July 1, 2014, the CBA's current fee levels are already at a point where the CBA is operating at a deficit to reduce the current Reserve levels. Therefore, the CBA states that it will explore all available options for reducing the Accountancy Fund Reserve, following repayment of the loans, to levels that comply with BPC section 128.5 and with the CBA's goal of maintaining the Reserve only at levels necessary for operation.

Hopefully, with a schedule of loan repayments and with the ability for the CBA to maintain at least a 24 month reserves, the Board may be able to stabilize its fees and its fund reserve. While theoretically it may be possible to fine tune revenues through frequent fee adjustments, and keeping sufficient reserves, the lengthy timeframes required to revise fee regulations make this strategy impractical and burdensome to administer in the future. Also, it is of primary concern for the Committees that the CBA be able to deal with the large expenditures of funds it may incur if its enforcement costs increase because of a major case against one of the major Accountancy Firms; this has happened to the CBA in the past.

The CBA is unique in California insofar as it regulates both individuals and firms. The largest accounting firms, known as the "Big Four," are not just some of the largest firms in this state and the United States, but in the entire world. In addition to the Big Four, a significant group of mid-size firms also exists. In their global offices, Big Four and mid-size firms may employ CPAs licensed by 55 U.S. jurisdictions as well as individuals licensed by other countries.

Oversight of large firms, including individuals employed by those firms, presents considerable challenges in budgeting and funding for the extensive, ever-fluctuating investigative and legal resources required to pursue large firm matters. These barriers are compounded by a cumbersome state contracting process, the necessary acquisition and retention of outside legal resources and technical accounting expertise, lengthy legal procedural timelines, and the consumption of significant internal staff time in meeting all of the requirements of the state's administrative processes and procedures.

Confirming and proving an "audit failure" by a large firm is a rigorous undertaking, and investigations of complex audit engagements can consume several years and cost the CBA millions of dollars. To meet the challenges of pursuing large firm matters, the CBA needs a technically proficient staff of Investigative CPAs, ready access to technical consultants on complex accounting issues, and outside legal counsel to assist the AG's Office. In the previous disciplinary structure, no action existed between probation (and attendant terms) and license suspension/revocation. The passage of SB 1543 (Figueroa, Chapter 921, Statutes of 2004) remedied this problem somewhat by providing the CBA with additional fining authority as necessary. The CBA now has authority to fine large accounting firms up to \$1 million for initial audit failure, and \$5 million for subsequent violations. The CBA may also take other actions against a large firm if it has been found to have been involved in the use of improper accounting standards, or even worse, accounting fraud, falsification or concealment.

The operating budget for the Enforcement Program is approximately \$1.3 million. BPC section 5025.2 authorizes the CBA to use an additional \$2 million from its reserve, if necessary, to fund litigation or enforcement activities. Because this amount is appropriated annually, but not always expended, any portion of this \$2 million not spent during the budget year cannot be held over for the next year. However, when a large matter occurs, generating the extreme funding demands that such a case requires \$2 million can be spent quickly in pursuing a single case. Under current spending authority restrictions, present resource limitations would preclude or severely hamper the Board from actively investigating and prosecuting more than one large firm case at a time.

For example, the CBA began investigating a major accounting firm KPMG in 1996, the target of a \$3 billion lawsuit by bankrupt Orange County. The County alleged that one of the nation's largest accounting firms failed to warn County leaders about the risks in its ill-fated investment pool. KPMG, which performed annual audits for the County from 1992 to 1994, denied any wrongdoing. The case against KPMG was litigated by the CBA for almost ten years (to 2005) at a cost in excess of \$8 million to the CBA, including over \$3 million in attorney fees. A more recent matter in 2011 has cost the CBA so far approximately \$1.2 million to adjudicate and they are continuing to expend funds, as one of the individuals associated with the matter has filed multiple lawsuits/appeals against the CBA.

With adequate reserves in the CBA's Accountancy Fund, the Board should be able to investigate and prosecute cases involving large and medium sized firms whenever necessary and within its current budgetary and staffing levels. If additional moneys are needed beyond that which the CBA may immediately access, then at least sufficient reserves of up to 24 months would allow the CBA to seek whatever other enforcement costs were necessary.

Staff Recommendation: *The CBA should explain to the Committees the current situation which exists regarding its reserve funds and whether the CBA plans on maintaining a prudent reserve of at least 24 months for unanticipated enforcement expenditures or whether they plan on seeking other fee reductions in the future.*

**CONTINUED REGULATION OF THE PROFESSION BY THE
CURRENT MEMBERS OF THE CALIFORNIA BOARD OF ACCOUNTANCY**

ISSUE #5. (CONSUMER SATISFACTION WITH CBA IS UNCLEAR.) A Consumer Satisfaction Survey performed by the CBA over the past four years, shows that on average only about 45% of consumers were satisfied with the overall service provided by the Board. However, another internal survey by the CBA showed a significant increase in the “customer service” provided by CBA.

Background: To The CBA uses two customer satisfaction surveys. The first one is the DCA Enforcement Customer Satisfaction Survey regarding the CBA enforcement program and the second is the CBA Stakeholder Satisfaction Survey covering all services provided by CBA staff.

The DCA Customer Satisfaction Survey is designed to obtain feedback from complainants regarding their experiences with the Enforcement Division. The number of responses from the customer satisfaction surveys for FY 2010/2011, FY 2011/2012, FY 2012/2013, and FY 2013/2014 is extremely low. Over a four year period, the CBA received roughly 100 responses out of approximately 9,000 complaints during the same timeframe. The low response rate to this particular survey has existed since its inception. Approximately 45% are very dissatisfied with the way in which their complaint was handled and when asked if they would contact the CBA again, many indicated they would not. Again, as indicated by CBA the sampling of responses was very low.

In an effort to increase feedback, the CBA revised its internal stakeholder satisfaction survey to solicit feedback regarding the Enforcement Division. The CBA believes that its internal survey provides more accurate results due to the larger sample size.

The CBA Stakeholder Satisfaction Survey is a significant source of feedback from stakeholders on their experiences with the CBA. On average, more than 80 percent of those responding to the survey report being satisfied with the service they received from the CBA. Additionally, more than 80 percent reported being satisfied with how quickly CBA staff responded to their inquiries. In evaluating responses for trends, satisfaction with service and response time has been trending upward, with an 86 percent and 91 percent satisfaction rate respectively in FY 2013/2014.

The CBA indicates that it uses the results in its efforts to improve stakeholder service. Comments provided by respondents are overwhelmingly positive in regard to the service they have received, but on occasion specific suggestions are made regarding the usability of the CBA website or regarding online services not yet offered. The CBA states that it takes these comments as opportunities for improvement to its service, such as a current project to make its website more user-friendly and intuitive while migrating its website to the current state template. The CBA is also looking forward to the implementation of the BreZE system, which they believe will put in place many of the online services requested by stakeholders.

Recommendation: *The CBA should explain to the Committees why it believes consumer satisfaction regarding the results obtained by the Board for a consumer complaint were initially low and why they believe its internal survey provides more accurate results. How is the Stakeholder Satisfaction Survey conducted? CBA should also indicate what efforts the Board is taking to improve its general service to the consumer.*

ISSUE #6. (CONTINUED REGULATION OF THE PROFESSION BY THE CBA?)

Should the licensing and regulation of certified public accountants be continued and be regulated by the current board membership?

Background: The health, safety and welfare of consumers are protected by a well-regulated certified public accounting profession. The CBA has shown over the years a strong commitment to improve the Board's overall efficiency and effectiveness and has worked cooperatively with DCA, the Legislature and the Committees to bring about necessary changes. The CBA should be continued with a four-year extension of its sunset date so that the Committees may review once again if the issues and recommendations in this Paper and others of the Committees have been addressed.

Staff Recommendation: *Recommend that the certified public accounting profession continue to be regulated by the current CBA members in order to protect the interests of the public and be reviewed once again in four years.*