

**BACKGROUND PAPER**  
**California Board of Accountancy (CBA)**  
**Joint Oversight Hearing, February 26, 2019, of the Senate Committee**  
**on Business, Professions and Economic Development and**  
**Assembly Committee on Business and Professions**  
  
**IDENTIFIED ISSUES, BACKGROUND AND**  
**RECOMMENDATIONS REGARDING THE CALIFORNIA**  
**BOARD OF ACCOUNTACY**

**BRIEF OVERVIEW OF**  
**CALIFORNIA BOARD OF ACCOUNTANCY**

**History and Function of the California Board of Accountancy**

For over 100 years, the California Legislature has entrusted the California Board of Accountancy (CBA) with protecting the public related to the practice of public accountancy in California. The CBA's mission evokes this charge:

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

The breadth of the CBA's influence in the regulatory environment stretches beyond California's borders. The CBA regulates over 108,000 licensees, including individuals (certified public accountants and public accountants) and accounting firms (partnerships and corporations). Many of the accounting firms that the CBA regulates have national footprints and some have footprints worldwide. Certified Public Accountants (CPAs) work in a wide range of areas including accounting firms, private industry, government, and academia, and provide services to clients of all sizes and needs.

The CBA recognizes the scope of its regulatory influence. With stakeholders ranging from consumers needing accounting services; lenders, shareholders, and investors that rely on services rendered by CPAs; and businesses – large and small – that use CPAs to establish internal accounting controls (to name a few), the protection of the public shapes the policies, regulations, and enforcement decisions reached by the CBA.

**Make-up and functions of each of the CBA's committees**

The CBA uses a combination of committees, some legislatively established, and some CBA established, to aid the CBA in achieving its legislative mandate of consumer protection. Presently, the CBA has four legislatively established and four CBA established committees focused on furthering its efforts with consumer protection.

Beginning in 2016, the CBA reads into the record its mission statement at the start of all meetings. The CBA began this act to ensure the public and members attending the meetings understand the decisions reached by the CBA are in furtherance of meeting its consumer protection mandate.

### **Legislatively Established Committees**

For the CBA's legislatively established committees, the CBA draws from volunteers throughout the licensee population (except for the Mobility Stakeholder Group, which has its membership composition established in statute). For all appointments to a committee, the CBA works with the current committee chair to discuss knowledge and skills to ensure that the appointee will contribute to the committee's function and enable it to carry out its mandated activities.

#### *Enforcement Advisory Committee*

The California Legislature established the Enforcement Advisory Committee to assist the CBA by serving in a technical advisory capacity to the CBA Executive Officer and Enforcement Program. The Enforcement Advisory Committee is comprised of 13 licensees, with broad-ranging experience in all areas of practice.

The Enforcement Advisory Committee reviews open investigations to provide the Enforcement Program with technical assistance, including assisting with possible next steps in an investigation. Additionally, the Enforcement Advisory Committee reviews closed investigations to evaluate the sufficiency of the investigation and areas where the investigation could have been improved. Lastly, the committee serves a critical role in participating in investigative hearings conducted with staff and counsel from the Attorney General's Office.

#### *Qualifications Committee*

The California Legislature established the Qualifications Committee to assist the CBA in an advisory capacity with its licensure activities. The Qualifications Committee is comprised of 13 licensees, with a background in performing audit-related services.

The Qualifications Committee interviews applicants and employers and conducts and evaluates work paper reviews to ensure that applicants meet California's experience requirements. Additionally, the committee performs annual audits of approved CPA applications.

#### *Peer Review Oversight Committee*

The California Legislature established the Peer Review Oversight Committee to ensure the effectiveness of California's Peer Review Program. The Peer Review Oversight Committee is comprised of seven licensees, with a background in attestation services.

The primary function of the committee centers on evaluating the administration of the American Institute of CPAs (the sole CBA-recognized peer review program provider) to ensure that it meets the requirements prescribed by the CBA in regulation. The Peer Review Oversight Committee performs a broad range of oversight functions including performing an annual site visit of the administering entity, conducting sample reviews of completed peer reviews, and attending peer reviewer training courses.

Annually, the committee submits a report to the CBA describing the oversight functions it performed and making a recommendation to the CBA regarding the continued recognition of the American Institute of CPAs as a CBA-recognized peer review program provider.

#### *Mobility Stakeholder Group*

The California Legislature established the Mobility Stakeholder Group with the express purpose of determining whether California's practice privilege (more commonly referred to as mobility) provisions meet the CBA's duty to protect the public and whether the provisions satisfy the objectives of stakeholders of the accounting profession, including consumers.

The Mobility Stakeholder Group is comprised of two members of the CBA, two representatives of the accounting profession, two consumer representatives, and one CBA Enforcement Program staff member. All seven members are appointed by the CBA President.

### **CBA Established Committees**

The CBA established committees are comprised of seven CBA Members, all of which are appointed by the CBA President. The CBA President takes care to ensure appointments to these committees are inclusive of the makeup of the CBA (having both public and licensee members), and that CBA Members rotate through the committees to provide their respective perspectives during their tenures.

#### *Committee on Professional Conduct*

The CBA established the Committee on Professional Conduct to consider and develop recommendations on issues that affect consumers and that apply to the practice of public accountancy. The committee also considers, formulates, and proposes policies and procedures related to emerging and unresolved issues.

#### *Enforcement Program Oversight Committee*

The CBA established the Enforcement Program Oversight Committee to assist the CBA in considering issues related to the CBA Enforcement Program. The committee provides oversight of the enforcement goals and objectives. It also serves as the primary body for reviewing and proposing revisions to the CBA's Disciplinary Guidelines and Model Orders.

#### *Legislative Committee*

The CBA established the Legislative Committee to review, recommend, and advance legislation relating to consumer protection and the practice of public accountancy. The committee also coordinates the need for and use of CBA Members to testify before the Legislature.

#### *Strategic Planning Committee*

The CBA established the Strategic Planning Committee to assist in the development and implementation of the CBA Strategic Plan. The committee reviews the progress on the completion of the goals and objectives and provides an update to the CBA on a yearly basis.

TABLE 1B. BOARD MEMBER ROSTER					
Member Name	Date First Appointed	Date Re-Appointed	Date Term Expires	Appointing Authority	Type (public or professional)
Current					
<b>Alicia Berhow</b>	02/15/11	04/13/15	01/01/19	Speaker	Public
<b>Jose A. Campos, CPA</b>	12/14/12	01/15/16	11/26/19	Governor	Professional
<b>Nancy J. Corrigan, CPA</b>	08/17/18	N/A	11/26/21	Governor	Professional
<b>George Famalett, CPA</b>	11/23/15	1/2/19	01/01/23	Governor	Professional
<b>Mary M. Geong, CPA</b>	08/17/18	N/A	11/26/21	Governor	Professional
<b>Karriann Farrell Hinds, Esq.</b>	01/27/16	1/2/19	01/01/23	Governor	Public
<b>Dan Jacobson, Esq.</b>	09/01/17	N/A	01/01/21	Speaker	Public
<b>Xochitl A. León</b>	01/07/15	1/30/19	01/01/23	Senate	Public
<b>Luz Molina Lopez</b>	10/09/17	N/A	11/26/20	Governor	Public
<b>Carola A. Nicholson, CPA</b>	07/24/17	N/A	01/01/20	Governor	Professional

<b>Deidre Robinson</b>	06/26/15	12/7/18	11/26/22	Governor	Public
<b>Katrina L. Salazar, CPA</b>	12/14/12	01/05/16	11/26/19	Governor	Professional
<b>Michael M. Savoy, CPA</b>	12/21/10	12/7/18	11/26/22	Governor	Professional
<b>Mark J. Silverman, Esq.</b>	01/15/14	12/7/18	01/01/22	Governor	Public
Past					
<b>Sarah Anderson, CPA</b>	05/03/07	01/02/11	01/01/15	Governor	Professional
<b>Diana Bell</b>	09/04/09	01/12/11	01/01/15	Senate	Public
<b>Herschel Elkins, Esq.</b>	09/19/08	01/13/16	01/01/20	Senate	Public
<b>Laurence Kaplan</b>	03/15/11	01/15/13	01/01/17	Speaker	Public
<b>Louise Kirkbride</b>	03/18/08	01/02/11	01/01/15	Governor	Public
<b>Kay Ko</b>	12/03/13	N/A	11/26/16	Governor	Public
<b>Leslie LaManna, CPA</b>	01/12/07	12/14/12	01/01/16	Governor	Professional
<b>Kitak Leung, CPA</b>	12/21/10	N/A	11/26/14	Governor	Professional
<b>Jian Ou-Yang, CPA</b>	03/27/15	N/A	11/26/17	Governor	Professional
<b>Sunny Youngsun Park, Esq.</b>	01/11/17	N/A	01/01/20	Senate	Public
<b>Manuel Ramirez, CPA</b>	05/03/07	12/21/10	11/26/14	Governor	Professional
<b>Kathleen K. Wright, CPA</b>	01/27/15	N/A	11/26/17	Governor	Professional

## **Leadership Changes**

### *CBA Leadership*

Each year, the CBA votes to elect three leadership positions to serve for a 12-month period: President, Vice-President, and Secretary/Treasurer. CBA Leadership guides the priorities of the CBA during their term. This includes conducting board meetings, attending legislative meetings, testifying at legislative hearings, and giving presentations at various outreach events.

Those three CBA Members collaborate with the Executive Officer, Assistant Executive Officer, and the Enforcement Chief to identify priorities and accomplish goals for the upcoming year. Some of the priorities in recent years include:

- Enhancing outreach to CBA Stakeholders
- Preparing and issuing a report to the Legislature regarding mobility in California
- Initiating a project to accept credit card payments for license renewal
- Assessing the peer reviewer population

### *Staff Leadership*

The CBA's Executive Officer and Assistant Executive Officer have not changed since the prior Sunset Review. In December 2014, a new Enforcement Chief, Dominic Franzella, was hired.

Mr. Franzella graduated from California State University, Sacramento and began his career with the CBA in August 2005. Within a few years he was promoted to manager and managed several programs within the Licensing Program.

He was promoted to Chief of Licensing in March 2012.

Since leading the Enforcement Program, he has guided the CBA to many accomplishments, including:

- Reduced processing timeframes for complaint intake and investigation
- Streamlined processes for cases referred to the Attorney General's Office
- Provided quick resolution of matters that result in a Default Decision or Stipulated Settlement
- Significantly increased the number of disciplinary actions taken against licensees by identifying efficiencies with internal procedures
- Addressed inventory of aging cases
- Represented the CBA at national conferences

### **Restructuring of Enforcement Program**

The CBA performed a significant restructuring of its Enforcement Program in the furtherance of its mission to protect consumers. Because of the restructure, the CBA has experienced:

- Reduced time to process and resolve complaints
- Increased number of disciplinary actions
- Reduced inventory of aging cases
- Enhanced probation monitoring

At the end of 2015 and following an in-depth exploration of each area of the Enforcement Program, CBA Senior Management took necessary steps to reorganize positions throughout the CBA to ensure the CBA meets its mandate to protect consumers.

Recognizing the immediate and future needs of the Enforcement Program, CBA Senior Management redirected several positions to the Enforcement Program. Simultaneously, the Enforcement Program Managers began a project to streamline the workflow process.

Enforcement Program Management and staff met routinely to develop best practices related to case intake and case management, including:

- Developed new resources to assign and track cases
- Developed new checklists associated with case management
- Streamlined reports for administrative violations
- Revised communications associated with potential administrative violations designed to obtain increased compliance
- Developed comprehensive desk manuals designed to communicate expectations and provide useful training tools
- Instituted weekly meetings with non-technical analysts to discuss cases in a group setting, provide case direction and management, and share information regarding recent updates and changes
- Instituted bi-monthly meetings with technical investigators (the majority of whom work remotely throughout California) to discuss case direction and management and to share information regarding recent updates and changes

The CBA restructured its complaint intake process to handle both external and internal complaints in a more streamlined manner. This led to faster case assignment and more effective information gathering so investigative staff have a complete set of data to analyze at the onset of an assignment.

The CBA revised its best practices for its interactions with the Attorney General's Office. This included establishing procedures for following up on referred cases and obtaining resolutions for cases.

As more cases have been resolved, the CBA has experienced an increase in licensees on probation. The probation

monitoring staff implemented several process improvements that clearly communicate the terms of probation to probationers and tracks compliance during the term of probation.

Each of these individually and collectively have resulted in increased consumer protection.

### **Successful Completion for Implementing Mobility**

One of the major accomplishments the CBA experienced was the successful implementation of the mobility provisions passed by the Legislature in 2012 (Senate Bill 1405, Chapter 411). Implementation of the mobility program was a multi-year effort, which began in 2012 and 2013 and concluded in 2015 through 2017, with the submission of the CBA's [California's Mobility Program for Accountancy, Implementation, Enforcement, and its Consumer Benefits](#) (also highlighted in Question 4).

The core elements of the final implementation stages focused on ensuring states operated under enforcement best practices and maintained necessary disciplinary disclosure information. In these two areas, California's mobility provisions laid the groundwork nationally for enforcement best practices and consumer-related disclosures for disciplinary information.

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.

As part of the implementation, the National Association of State Boards of Accountancy developed Guiding Principles of Enforcement. The CBA reviewed these principles to determine if they met or exceeded enforcement practices used in California. After a public hearing on the Guiding Principles of Enforcement, the CBA determined they met California's own enforcement practices.

Using the Guiding Principles of Enforcement, and with the assistance of the National Association of State Boards of Accountancy in performing a state-by-state assessment, the CBA determined that other state boards of accountancy were operating under enforcement practices substantially equivalent to the Guiding Principles of Enforcement.

The Guiding Principles of Enforcement have set a baseline 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.

The greatest impact of the California mobility program is the movement of states to adopt the provision of a disciplinary marker through either CPAverify<sup>1</sup> or states' license look-up tool. When the National Association of State Boards of Accountancy presented its initial review of jurisdictions to the CBA in September 2015, 17 states were lacking disciplinary markers; now, all states maintain the required disciplinary flag. Consumers now have access to disciplinary information for all state boards of accountancy nationally.

While the CBA has completed the successful implementation of the mobility program, it recognizes the importance of continued state-level oversight to ensure that states continue to operate under established enforcement best practices and maintain necessary disciplinary disclosure information. Therefore, the CBA has developed a framework for continued monitoring to further ensure the success of the mobility program and consumer protection.

Given the successful implementation of the mobility program and the conclusions reached by the CBA that the mobility program enacted by the Legislature met the CBA's mission to protect consumers, as part of the 2018 legislative year, Senate Bill 795 (Chapter 447, Statutes of 2018) was passed by the Legislature and signed into law by Governor Brown making the mobility program permanent.

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<sup>1</sup> CPAverify is a CPA lookup tool populated by official state regulatory data sent from Boards of Accountancy to a central database.

## **Fiscal, Fund and Fee Analysis**

The CBA's statutory mandate and highest priority is to protect the public.

The CBA has also continued to meet state-wide directives and goals focused on purchasing goods and services from Small Business and Disabled Veteran Business Enterprises. In January 2017, the CBA received an award for its success in exceeding state expectations in contracting and furthering the "best practice" activities with Small Business and Disabled Veteran Business Enterprises for fiscal year 2015-16.

### *Fiscal Issues*

The CBA's fund is not continuously appropriated. It is developed annually and subject to legislative approval.

The CBA's reserve level at the end of fiscal year 2017-18 was \$27,124,000, which is 22 months in reserve. There is no CBA-specific reserve level requirement in statute. The CBA complies with Business and Professions Code section 128.5(a), which limits its fund balance to no more than two years of expenditures, or 24 months in reserve.

The CBA operates within its legislatively established budget and ensures that spending does not exceed its authorized amount. The CBA reverts any unspent monies to its reserve. The reversion has been somewhat high in prior years; however, due to increased spending in enforcement, that reversion amount will significantly decrease.

In February 2018, the Department of Finance approved a mid-year budget augmentation of \$154,000 for Attorney General services to address unanticipated costs associated with the Enforcement Program. The CBA projects increased costs in enforcement over the coming years and is seeking an ongoing increase to its funding to ensure it has sufficient resources to address its enforcement inventory.

A portion of the CBA's budget is paid to Department of Consumer Affairs for various support services, which are provided by two primary divisions: Consumer and Client Services Division, and Division of Investigation. Provided below is a brief description of the services and the cost methodology.

- 1) Consumer and Client Services Division consists of:
  - Administrative and Information Services, Equal Employment Opportunity Office, legal affairs, SOLID Training, budgets, accounting, cashiers and personnel: *Costs are based on authorized position count.*
  - Office of Information Services, which include telecom, PC support, LAN/WAN, and Web services: *Costs are based on service center usage.*
  - Communications Division, which includes Public Affairs and Publications, Design and Editing: *Costs are based on authorized position count.*
  - Consumer Information Center and Correspondence Unit: *Costs are based on client's past year workload.*
- 2) Division of Investigation consists of:
  - Investigative services: *Fee for service is based on a two-year roll-forward methodology. This methodology uses a client's actual workload/costs in the prior year to determine the client's budget in budget year, which will cover the budget year estimated workload, plus any credit or debit for services already provided.*
  - Investigations and Services Team: *Costs are based on authorized position count.*

Pro Rata Paid to DCA (dollars in thousands)				
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
<b>Total CBA Budget Amount</b>	\$13,776	\$14,765	\$14,350	\$14,089
<b>Pro Rata:</b>	\$1,318	\$1,600	\$1,852	\$1,963

<b>Client Services</b>	\$1,293	\$1,569	\$1,773	\$1,893
<b>Division of Investigation</b>	\$25	\$31	\$79	\$70
<b>Percentage of Budget</b>	9.6%	10.8%	12.9%	13.9%

The percentage of the CBA's budget paid to pro rata is slightly below the Department of Consumer Affairs' average of 15 percent. The CBA has seen an increase in the total dollars paid for Division of Investigation-related services. This is because the CBA has referred a higher volume of unlicensed activity cases to the Division of Investigation.

The CBA operates within its legislatively established budget; however, due to reduced regulatory fees presently in place, the CBA is operating in a negative cash flow. This results in the CBA drawing from its reserve level to fund its yearly operating budget.

The license renewal and initial license fee were set at \$200 in 2000. The fee remained at this level until July 2011, when the CBA reduced the fee to \$120. At the time, there was a statutory requirement to keep the CBA's reserve level at nine months. This requirement prompted the CBA to establish a reduced fee and operate at a negative cash flow to draw money from the Accountancy Fund as it was approaching historically high levels of around 17 months in reserve.

In July 2012, following the first year of lowered renewal fees, the CBA determined that the reduction did not have the anticipated impact to the reserve level because of several unanticipated cuts in spending and hiring freezes, mandated by the Governor due to the economic downturn. Therefore, the CBA initiated another fee reduction in January 2013 that became effective in July 2014.

This reduction was for a two-year timeframe and lowered the license renewal and initial license fee to \$50. The CBA also reduced several other fees associated with applications to ease entry into the practice of accountancy.

Prior to the conclusion of the two years, the CBA was required to conduct an analysis of its fee level and Accountancy Fund to determine whether fee changes were necessary. Absent any subsequent fee changes, the license renewal fee would be restored to the \$120 level effective July 1, 2016.

In fiscal year 2014-15, the CBA conducted an analysis of the Accountancy Fund and fee level structure and initiated a rulemaking to restore the license renewal fee to \$200. This was done to increase the CBA reserve, which at the time was projected to be at approximately six months. The Department of Finance disapproved the regulatory proposal and, as a result, the license renewal fee of \$120 was reinstated beginning July 1, 2016.

The likely reason the Department of Finance disapproved the regulatory proposal centered on the fact the CBA was scheduled to receive repayment of various General Fund Loans which was anticipated to have a positive impact on its reserve. However, the \$120 renewal fee continued the CBA's negative cash flow, which has reduced and will continue to reduce the reserve.

The CBA approved a fee increase at its January 2018 meeting, to increase the license renewal and initial license fees to the statutory maximum level of \$250. If approved, the CBA will operate within a more structurally balanced budget and the increased revenue will stabilize the CBA's reserve fund.

**Table 2. Fund Condition (dollars in thousands)**

	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>FY 2018- 19<sup>1</sup></b>	<b>FY 2019- 20</b>
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<b>Beginning Balance</b>	\$14,186	\$6,818	\$12,592	\$31,789	\$27,486	\$22,224
<b>Prior Year Adjustments</b>	\$210	\$174	\$311	n/a	n/a	n/a
<b>Adjusted Beginning Balance</b>	\$14,396	\$6,992	\$12,903	\$31,789	\$27,486	\$22,224
<b>Revenues and Transfers (Revenue + General Fund Loan Transfers)</b>	\$5,298	\$5,076	\$12,473	\$10,087	\$10,022	\$10,312
<b>Interest Income Revenue</b>	\$25	\$18	\$99	\$285	\$373	\$271
<b>Total Revenue</b>	\$5,323	\$5,094	\$9,905	\$10,087	\$10,022	\$10,312
<b>Budget Authority</b>	\$13,992	\$14,469	\$14,054	\$13,793	\$14,207	\$15,802
<b>Actual Expenditures<sup>2</sup></b>	\$12,891	\$12,691	\$13,905	\$13,793	\$14,207	\$15,802
<b>Disbursements to Other State Agencies<sup>3</sup></b>	\$10	\$23	\$781	\$988	\$1,077	\$1,138
<b>Loans to General Fund</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Accrued Interest, Loans to General Fund</b>	\$0	\$2,950	\$5,619	N/A	N/A	N/A
<b>Loans Repaid from General Fund</b>	\$0	\$10,270	\$21,000	N/A	N/A	N/A
<b>Fund Balance</b>	\$6,818	\$12,592	\$31,789	\$27,486	\$22,224	\$15,596
<b>Months in Reserve</b>	6.4	10.3	25.9	21.6	15.7	10.8

1. Projected (FY 2017-18 includes Attorney General Augmentation of \$154,000)

2. CBA expenditures only – Does not include disbursements to other state agencies. The expenditures for fiscal year 2017-18 reflect a projected number due to delays in finalizing budget information in the Fi\$Cal accounting system.

3. Includes Fi\$Cal and Statewide Pro Rata disbursements

The CBA made six loans to the General Fund totaling \$31,270,000. The interest rate is determined at the time the General Fund Loan is made. Interest is repaid as simple interest and is computed at the time the loan repayment is authorized by the Executive Order and then is repaid by the State Controller's Office. The loan and interest amounts were as follows:

<b>Fiscal Year</b>	<b>Loan Amount (dollars in thousands)</b>	<b>Interest</b>	<b>Interest Accrued (dollars listed in thousands)</b>	<b>Fiscal Year Repaid</b>
<b>2002-03</b>	\$6,000	2.640%	\$2,077	2015-16
<b>2003-04</b>	\$270	1.640%	\$49	2015-16
<b>2008-09</b>	\$4,000	2.780%	\$825	2015-16
<b>2008-09</b>	\$10,000	2.780%	\$2,325	2016-17
<b>2010-11</b>	\$10,000	0.515%	\$319	2016-17

<b>2011-12</b>	\$1,000	.0389%	\$21	2016-17
<b>TOTAL</b>	\$31,270		\$5,619	

The loans to the General Fund were taken from boards who had a healthy reserve balance and who would not experience any impact to their operations should a loan be taken. During 2010, the CBA's reserve level was approaching 17 months. At the time, the CBA had a statutory provision to keep only nine months of expenditures in its Reserve. Given the CBA's reserve level several loans were provided to the General Fund.

The CBA is comprised of the Executive Office and three programs: Administration, Licensing, and Enforcement. There are approximately 100 staff members who serve throughout the CBA in various capacities. The CBA's heaviest expenditures are in its Enforcement Program.

**Table 3. Expenditures by Program Component (list dollars in thousands)**

	<b>FY 2014-15</b>		<b>FY 2015-16</b>		<b>FY 2016-17</b>		<b>FY 2017-18<sup>4</sup></b>	
	<b>Personnel Services</b>	<b>OE&amp;E<sup>3</sup></b>	<b>Personnel Services</b>	<b>OE&amp;E<sup>3</sup></b>	<b>Personnel Services</b>	<b>OE&amp;E<sup>3</sup></b>	<b>Personnel Services</b>	<b>OE&amp;E<sup>3</sup></b>
<b>Enforcement</b>	\$3,508	\$1,451	\$3,681	\$546	\$3,897	\$1,651	\$4,049	\$1,130
<b>Examination</b>	\$593	\$173	\$629	\$273	\$596	\$233	\$542	\$192
<b>Initial Licensing</b>	\$773	\$374	\$796	\$353	\$40	\$161	\$758	\$253
<b>Licensing Renewal</b>	\$1,443	\$584	\$1,372	\$545	\$1,914	\$556	\$1,278	\$452
<b>Executive<sup>1</sup></b>	\$396	\$320	\$400	\$381	\$411	\$339	\$442	\$156
<b>Administration<sup>2</sup></b>	\$1,584	\$374	\$1,749	\$366	\$1,962	\$293	\$1,908	\$675
<b>DCA Pro Rata</b>	N/A	\$1,318	N/A	\$1,600	N/A	\$1,852	N/A	\$1,929
<b>TOTALS</b>	\$8,297	4,594	\$8,627	\$4,064	\$8,820	\$5,085	\$8,977	\$4,787

1. Executive expenditure includes costs for executive staff and CBA members
2. Administration expenditures include costs for administrative staff, support, and fiscal services
3. OE&E includes reimbursements
4. Figures are based on Fiscal Month 12. Final year-end figures for fiscal year 2017-18 are unavailable due to the Department of Consumer Affairs' transition to Fi\$Cal.

The CBA began contributing to the BreEZe project in fiscal year 2009-10. Over nine fiscal years, the CBA has paid \$889,248. Department of Consumer Affairs has informed the CBA that it will not have any future costs associated with BreEZe.

<b>CBA BreEZe costs (dollars in thousands)</b>	
<b>Fiscal Year</b>	<b>Amount</b>
<b>2009-10</b>	\$7
<b>2010-11</b>	\$23
<b>2011-12</b>	\$120
<b>2012-13</b>	\$27

<b>2013-14</b>	\$212
<b>2014-15</b>	\$113
<b>2015-16</b>	\$110
<b>2016-17</b>	\$277
<b>2017-18</b>	\$0

The CBA was slated for BreZze Release 3; however, presently the CBA is collaborating with Department of Consumer Affairs regarding a Business Modernization project to replace the current legacy database systems. The project is scheduled to begin in fiscal year 2019-20 and the CBA anticipates that the cost of this project could reach \$5 million.

#### License Renewal Cycles

*CPA* - CPA licensees renew on a biennial cycle based on the month and year of their birth.

*Accounting Firms* - Accounting firm licensees (corporations and partnerships) renew on a biennial cycle based on the month and year the original license was issued.

*Fictitious Name Permits* - Fictitious name permits renew on a five-year cycle based on the month and year the original permit was issued.

*Out-of-State Firm Registration* - Out-of-State Firm Registrations renew on a biennial cycle based on the month and year the original registration was issued.

#### History of Fee Changes

During the last 10 years, CBA fees have been reduced twice and increased once. The fee reduction timeframes, fee changes, and present fees, are as follows:

Beginning July 2011, the CBA reduced its license renewal and initial license fee to \$120 to operate at a negative cash flow and draw money from its reserve as it was approaching historically high levels. At the time, this reserve was out of compliance with a statutory requirement to keep the CBA's reserves at nine months.

In fiscal year 2011-12, the CBA implemented a four-year temporary fee reduction that took effect July 1, 2011 and was scheduled to end June 30, 2015. The following fees were reduced:

- Initial license: \$200 to \$120
- Prorated license: \$100 to \$60
- License renewal: \$200 to \$120
- Delinquent fee for late license renewal: \$100 to \$60

In July 2012, following the first year of lowered renewal fees, the CBA determined that the reduction did not have the anticipated impact to the reserve level because of several unanticipated cuts in spending and hiring freezes, mandated by the Governor due to the economic downturn. Therefore, the CBA initiated another fee reduction in January 2013 that became effective July 2014.

This reduction was for a two-year timeframe and lowered the license renewal and initial license fee to \$50. The CBA also reduced several other fees associated with applications to ease entry into the practice of accountancy. The following fees were reduced:

- License application: \$250 to \$50
- CPA Examination application: \$100 to \$50 for first-time exam applicants; \$50 to \$25 for repeat examination applicants
- Initial license: \$120 to \$50
- Prorated license: \$60 to \$25
- License renewal: \$120 to \$50
- Delinquent fee for late license renewal: \$60 to \$25

In fiscal year 2014-15, the CBA conducted an analysis of the Accountancy Fund and fee level structure and initiated a rulemaking to restore the license renewal and initial license fee to \$200. This was done to increase the CBA reserve, which at the time was projected to be at approximately six months. The Department of Finance disapproved the regulatory proposal and, as a result, the license renewal fee of \$120 was reinstated beginning July 1, 2016. The following fees are now in place:

- License application: \$250
- CPA Examination application: \$100 for first-time exam applicants; \$50 for repeat examination applicants
- Initial license: \$120
- Prorated license: \$60
- License renewal: \$120
- Delinquent fee for late license renewal: \$60

**Table 4. Fee Schedule and Revenue (revenue dollars in thousands)**

Fee	Current Fee Amount	Statutory Limit	FY 2014-15 Revenue	FY 2015-16 Revenue	FY 2016-17 Revenue <sup>4</sup>	FY 2017-18 Revenue <sup>5</sup>	4-Year Average	% of Total Revenue <sup>6</sup>
<b>Application</b>	\$250	\$250	\$169	\$197	\$992	\$860	\$555	7%
<b>Exam</b>	\$100/\$50 <sup>1</sup>	\$600/\$75	\$2,112	\$2,079	\$2,973	\$2,885	\$2,512	30.5%
<b>Initial Permit</b>	\$120/\$60 <sup>2</sup>	\$250/\$125	\$127	\$162	\$363	\$332	\$246	3%
<b>Biennial Renewal</b>	\$120	\$250	\$2,480	\$2,223	\$5,026	\$5,311	\$3,760	46%

<b>Delinquent Biennial Renewal</b>	\$60	\$125	\$206	\$218	\$292	\$295	\$253	3%
<b>Certification</b>	\$25	\$25	\$35	\$36	\$39	\$34	\$36	0.5%
<b>Other Misc. Income<sup>3</sup></b>			\$623	\$1,638	\$568	\$718	\$806	10%
		<b>Total:</b>	<b>\$5,752</b>	<b>\$6,553</b>	<b>\$10,253</b>	<b>\$10,435</b>	<b>\$8,161</b>	<b>100%</b>

1. The CPA Examination scheduling fee is \$100 for first time applicants. Fees for applicants who are repeat candidates are \$50.
2. The initial permit fee of \$120 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.
3. This category includes certifications, interest income, penalties and fines, and cost recovery.
4. Temporary fee reduction ended 06/30/2016.
5. Figures are based on Fiscal Month 12. Final year-end figures for fiscal year 2017-18 are unavailable due to the Department of Consumer Affairs' transition to Fi\$Cal.
6. The percentage of total revenue is averaged over four fiscal years.

### **Staff Analysis**

The CBA has budget authority to recruit temporary help, which can include student assistants, seasonal clerks, permanent intermittent, and limited-term positions. The temporary help authority is designed to recruit staff to address short-term work or seasonal increases in volumes; however, to meet the CBA's present statutory requirements, it has relied heavily on temporary help to meet the workload demands.

The CBA leverages its existing resources to meet new mandates, implement and maintain its Licensing Programs, and most importantly ensure the Enforcement Program has the tools necessary to ensure licensees practice public accountancy in accordance with established professional standards. In recent years, the CBA redirected staff and workload assignments, restructured its programs, and reorganized its Licensing and Enforcement Programs.

The CBA has previously requested an augmentation of its permanent staff to address ongoing workload that is being completed by temporary help but has been unsuccessful in those efforts. Further complicating the matter is the CBA's current budget authority for temporary help is insufficient to address the current personnel volume.

With no additional avenues to pursue, the CBA is seeking to address its ongoing workload by securing permanent staff and funding to eliminate the use of temporary help. A budget change proposal was submitted and absent approval of the positions or securing additional funding to address its workload needs, the CBA will likely experience increases in processing timeframes for examination, licensure, and enforcement, significantly impacting the CBA's ability to meet its consumer protection mandate.

### **Grow Your Career**

The CBA created an internal website called "Grow Your Career," to assist staff in their development efforts. The Grow Your Career site is a "one-stop-shop" that contains significant resources to assist staff to further his/her state career.

Information available includes:

- Job classifications at the CBA
- Link to California Department of Human Resources website for examination and job openings
- Upward Mobility Program information
- Training resources
- Creating professional resumes, cover letters, and statements of qualification
- Interviewing techniques
- Sample study guides, interview questions, and writing assignments

### Temporary Help

The CBA undertook a significant restructure of staff in 2016, ensuring consumer protection remains its top priority, and redirected 10 staff members to the Enforcement Program. The redirection addressed the increased volume of enforcement workload and processing timeframes for complaint resolution. By using permanent resources to address permanent and ongoing workload, the Enforcement Program experienced reduced processing timeframes for complaints, an increase in the number of cases that are referred to the Attorney General, and an increase in the number of disciplinary actions taken.

The redirected staff primarily came from the Licensing Program. The redirection, while positive for Enforcement, contributed to extended processing timeframes for examination and licensure applications. To address the workload demands, the Licensing Program began recruiting additional temporary help. While this has assisted the Licensing Program, it has not resolved the workload changes.

On average, the CBA has employed 18.5 temporary positions each year, however, it presently employs 17 temporary positions. Given the nature of temporary help positions, individuals in these positions look for opportunities to secure permanent positions, which, in turn, creates a high turnover rate. In fiscal year 2016-17, the CBA experienced a 44 percent turnover in its temporary help, with this rate growing to 53 percent in fiscal year 2017-18.

The temporary help employed at the CBA are addressing consistent and ongoing workload that is appropriately handled by permanent staff. The CBA is seeking permanent resources to replace its temporary help. It is anticipated that, if received, this will help to prevent future increases to its processing timeframes.

The CBA has attempted to address its staffing needs through prior budget change proposal submissions but has been unsuccessful to date. The CBA will continue its efforts to secure permanent staffing resources through the budget change proposal process.

### Licensing

The Licensing Program's primary charge in meeting the CBA's consumer protection mission, is to regulate entry and continuing practice in the profession by ensuring that only those who are qualified are licensed to practice public accountancy.

The CBA maintains a 30-day processing target for its applications. The 30-day processing timeframe is the target reported to the Governor's Office and Legislature as part of the performance-based budgeting and is included in the CBA 2016-2018 Strategic Plan.

On average, the CBA issues 3,373 licenses/registrations annually and renews 44,365 (based on fiscal year). Over the past four fiscal years, the CBA has denied a total of nine applications for criminal convictions that were determined to be substantially related to the qualifications, functions, or duties of the profession pursuant to Business and Professions Code section 480. There were seven denied applications in fiscal year 2014-15, one in fiscal year 2016-17, and one in fiscal year 2017-18. Of the nine denied applications, three were related to driving under the influence, while the others were denied for convictions and/or crimes such as insurance fraud, burglary, sale of stolen property, battery/drugs, frivolous lawsuits, and unprofessional conduct.

TABLE 6. LICENSEE POPULATION <sup>2</sup>					
		FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Certified Public Accountant	Active	54,198	55,674	56,532	55,710
	Out-of-State	8,869	9,417	10,089	10,621

<sup>2</sup> This table was not designed to reflect the population of licensees in an inactive status.

	Out-of-Country	1,481	1,551	1,611	1,667
	Delinquent	9,045	9,065	9,486	10,788
Public Accountant	Active	24	19	15	9
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	39	33	30	28
Accountancy Partnership	Active	1,367	1,399	1,405	1,403
	Out-of-State	45	43	41	42
	Out-of-Country	0	0	0	0
	Delinquent	114	115	129	171
Accountancy Corporation	Active	3,817	3,970	4,078	4,152
	Out-of-State	40	46	50	56
	Out-of-Country	0	0	0	0
	Delinquent	333	373	435	495
Fictitious Name Permit	Active	1,954	2,082	2,175	2,261
	Out-of-State	23	28	34	40
	Out-of-Country	0	0	0	0
	Delinquent	6	6	6	7
Out-of-State Accounting Firm Registration <sup>3</sup>	Active	0	0	0	0
	Out-of-State	346	458	537	578
	Out-of-Country	0	0	0	0
	Delinquent	0	42	46	146

**TABLE 7. TOTAL LICENSING DATA**

	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
<b>Initial Licensing Data: (CPA and Firm)</b>			
Initial License Applications Received	4,361	4,358	3,521
Initial License Applications Approved	4,033	3,773	2,459
Licenses Issued	4,012	3,757	2,292

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

<b>Initial License Pending Application Data: (CPA and Firm)</b>			
Pending Applications (total at close of FY)	1,295	1,479	1,883
Pending Applications (outside of board control)	1,013	1,313	1,318
Pending Applications (within the board control)	282	166	565
<b>Initial License Cycle Time Data (WEIGHTED AVERAGE): (CPA and Firm)</b>			
Average Days to Application Approval (all – complete/incomplete)	70	82	222
Average Days to Application Approval (incomplete applications)	113	126	180
Average Days to Application Approval (complete applications)	27	39	41
<b>Initial Exam Data:</b>			
Initial Exam Applications Received	8,381	6,830	5,222
Initial Exam Applications Approved	8,120	7,061	5,224
<b>Initial Exam Pending Application Data:</b>			
Pending Applications (total at close of FY)	1,859	1,445	1,648
Pending Applications (outside of board control)	1	1	422
Pending Applications (within the board control)	1	1	1,226
<b>Initial Exam Cycle Time Data (WEIGHTED AVERAGE):</b>			
Average Days to Application Approval (all – complete/incomplete)	67	78	86
Average Days to Application Approval (incomplete applications)	100	115	127
Average Days to Application Approval (complete applications)	34	41	46
<b>License Renewal Data:</b>			
Licenses Renewed	44,444	45,628	45,262
Certified Public Accountant	41,624	42,997	42,916
Public Accountant	5	11	3
Accountancy Partnership	671	585	536
Accountancy Corporation	1,791	1,781	1,488
Fictitious Name Permit	222	159	177
Out-of-State Firm Registrations	131	95	142

<sup>1</sup> Exam data for fiscal year 2017-18 was manually counted. Prior fiscal year data is not available.

### **Continuing Education/Competency Requirements (CE)**

While ensuring individuals entering the profession possess appropriate competencies to safely practice is critical, it is also important that licensees practicing public accountancy maintain a continued level of appropriate competencies to ensure consumer protection.

With rapidly changing technology, continual revision of tax laws and professional standards, a strong focus on CPAs' continued competency is essential. Over the years, the CBA has refined its continuing education to ensure that CPAs maintain a currency of knowledge throughout the whole of the licensure period and are provided with the tools necessary to make objective and ethical decisions while practicing public accountancy.

CPAs are required to complete a minimum of 80 hours of continuing education every two years. As part of the 80 hours, the following must be met:

- A minimum of 40 hours in technical subject areas (i.e. accounting, auditing)
- A maximum of 40 hours in non-technical subject areas (i.e. communication skills, office management)
- A minimum of 20 hours must be completed in each year of the two-year license renewal period, with a minimum of 12 hours in technical subject matter
- Four hours of ethics education
- Every six years a two-hour Board-approved Regulatory Review course

#### Practice Specific Continuing Education Requirements

Licensees that perform certain services including accounting and auditing or governmental auditing are required to complete 24 hours of specified continuing education. The education is focused on providing them increased technical skills and understanding of the various industries in which they practice. Additionally, licensees that perform preparation engagements (if that is their highest level of service) must complete eight hours in specified continuing education.

Licensees required to complete any of the practice specific continuing education requirements must also complete four hours of continuing education in the prevention, detection, and/or reporting of fraud affecting financial statements.

The CBA allows for a high degree of flexibility in completing the required continuing education. Licensees can complete continuing education via various traditional delivery methods including live presentations, Internet-based formats, or self-study with no limitations on the number of hours completed using any delivery method. Further, the CBA also allows for individuals to earn continuing education through teaching/instructing courses, developing continuing education course materials, writing published works, and developing questions for the CPA Examination.

#### Changes Since the Last Sunset Review

Since the last Sunset Review, one change has occurred to the continuing education requirements. Licensees who perform preparation engagements as their highest level of service must complete eight hours in specified continuing education and four hours of continuing education in the prevention, detection, and/or reporting of fraud affecting financial statements.

The CBA determined requiring licensees who perform preparation engagements as their highest level of service to take required continuing education specific to preparation engagements or accounting and auditing and continuing education related to the prevention, detection, and/or reporting of fraud affecting financial statements will assist the CBA in its mission of consumer protection by ensuring these licensees maintain their professional competency.

In addition to the changes that took effect since the last Sunset Review, the CBA is promulgating regulations to include new allowable formats (nano learning and blended learning) that licensees can avail themselves of to complete the required hours.

Also, the CBA is promulgating regulations to increase the maximum allowable hours (from 20 hours to 40 hours) for certain specified activities to qualify as continuing education. These include writing published articles or books that contribute to professional competence, writing questions for the CPA Examination, and writing instructional materials for continuing education programs.

The CBA uses two programs to verify continuing education: 1) Continuing Education Worksheet Review Program, and 2) Continuing Education Verification Program. In addition, accounting firms (which include sole proprietorships) must complete a mandatory peer review requirement once every three years and report that to the CBA at the time of license renewal.

#### Continuing Education Worksheet Review

The Continuing Education Worksheet Review is a process where staff examine 100 percent of continuing education worksheets that list self-reported courses at license renewal completed by licensees in fulfillment of the 80-hour requirement.

### Continuing Education Verification

Under the Continuing Education Verification process, the CBA randomly selects licensees to submit documentation substantiating the completion of the continuing education they reported at the time of license renewal. Once the CBA receives all required documentation, it confirms that the continuing education was accurately reported, completed, and conformed to all laws and rules. The Continuing Education Verification process is performed in addition to the Continuing Education Worksheet Review. The CBA conducts audits of its licensees. Both the Continuing Education Worksheet Review and Continuing Education Verification processes work to ensure that licensees comply either through a form of self-certification or by requiring that substantiating documentation is provided for review.

Staff work collaboratively to assist licensees in complying with all necessary continuing education requirements. If any deficiencies are identified, staff notify licensees to obtain compliance. As part of the notification process, licensees are granted a specified period to resolve any identified deficiencies.

Licensees who fail to respond, rectify any outstanding deficiency identified, or have falsified reporting documents are referred to the Enforcement Program for further investigation. Licensees can be issued a citation and assessed an administrative fine ranging from \$100 to \$5,000. In some cases, the CBA may seek formal discipline up to, and including, revocation.

### Peer Review Reporting

Licensees must submit a peer review reporting form at the time of license renewal providing information regarding their compliance with and, if required, completion of peer review.

### Enforcement (Meeting Performance Measures/Target Dates)

The CBA Enforcement Program is instrumental in the CBA meeting its consumer protection mandate and aides in achieving its ability to protect consumers by:

- Ensuring that licensees comply with the provisions of the Accountancy Act and CBA Regulations.
- Conducting investigations of unlicensed practice.
- Referring matters to the Office of the Attorney General or local jurisdictions for prosecution.
- Imposing discipline consistent with the disciplinary guidelines.
- Imposing other enforcement actions, such as citations, fines, administrative suspensions, etc., where warranted.
- Monitoring probationers to ensure compliance with probationary terms.

The CBA has adopted the Department of Consumer Affairs Consumer Protection Enforcement Initiative performance measures for its Enforcement Program.

Enforcement Division – Performance Measures (in days)						
Performance Measure	Description	Target	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
PM2  Intake – Cycle Time	Average Number of Days from Complaint Receipt, to the Date the Complaint was Closed or Assigned to an Investigator	10	4	4	2	2

PM3  Investigation – Cycle Time	Average Number of Days to Complete the Entire Enforcement Process for Cases Not Transmitted to the Attorney General (Includes Intake and Investigation)	180	180	158	154	193
PM4  Formal Discipline – Cycle Time	Average Number of Days to Complete the Entire Enforcement Process for Cases Transmitted to the Attorney General (Includes Intake, Investigation, and Case Outcome)	540	913	807	965	865
PM7  Probation Intake – Cycle Time	Average Number of Days from Monitor Assignment, to the Date the Monitor Makes First Contact with the Probationer	10	5	1	1	1
PM8  Probation Violation Response – Cycle Time	Average Number of Days from the Date a Violation of Probation is Reported, to the Date the Assigned Monitor Initiates Appropriate Action	15	3	2	1	1

At the close of fiscal year 2017-18, the CBA met all but PM3 and PM4. As noted in the table, for PM3, in the prior fiscal years, the CBA has met the target performance measure.

Leading into the present sunset reporting period, the CBA accrued a large volume of cases that resulted in many cases aging beyond the established performance measure target. The CBA recognized this phenomenon was occurring and took active steps to mitigate the impact on the increased targets.

The CBA performed a significant restructure of its Enforcement Program in the furtherance of its mission to protect consumers. The restructure began with the CBA's Executive Officer hiring of a new Enforcement Chief in December 2014.

At the end of 2015 and following an in-depth exploration of each area of the Enforcement Program, CBA Senior Management took necessary steps to reorganize positions throughout the CBA to ensure the CBA meets its mandate to protect consumers. This included the redirection of several positions to the Enforcement Program.

Enforcement Program Management and staff met routinely to develop best practices related to case intake and case management, including:

- Developed new resources to assign and track cases
- Developed new checklists associated with case management
- Streamlined reports for administrative violations

- Revised communications associated with potential administrative violations designed to obtain increased compliance
- Developed comprehensive desk manuals designed to communicate expectations and provide useful training tools
- Instituted weekly meetings with non-technical analysts to discuss cases in a group setting, provide case direction and management, and share information regarding recent updates and changes
- Instituted bi-monthly meetings with technical investigators (the majority of whom work remotely throughout California) to discuss case direction and management and to share information regarding recent updates and changes

The CBA restructured its complaint intake process to handle both external and internal complaints in a more streamlined manner. This led to faster case assignment and more effective information gathering so investigative staff have a complete set of data to analyze at the onset of an assignment.

The CBA revised its best practices for its interactions with the Attorney General's Office. This included establishing procedures for following up on referred cases and procedures for obtaining resolution for cases.

As more cases have been resolved, the CBA has experienced an increase in licensees on probation. The probation monitoring staff implemented several process improvements that clearly communicates the terms of probation to probationers and tracks compliance during the term of probation.

As the CBA implemented these measures and took appropriate action to address the aged inventory – either through closure, citation, or formal discipline – these cases impacted the associated performance measures. This was especially true for PM3, which increased from 154 days in fiscal year 2016-17 to 193 days in fiscal year 2017-18, resulting in the CBA exceeding the performance measure by 13 days.

While the CBA always experiences fluctuations in PM4, for fiscal year 2017-18, the CBA saw a 100-day decrease over the prior fiscal year. The CBA believes an important component to the reduction in this area can be traced to improvements in CBA-related best practices associated with the Attorney General's Office.

The CBA works diligently to address disciplinary cases by actively monitoring for the filing of a Notice of Defense. If no Notice of Defense is received, the CBA requests that the Attorney General's Office prepare a default decision. When a Notice of Defense is received, the CBA works quickly to offer settlement terms and if a settlement cannot be reached, to set the matter for hearing.

The CBA has experienced significant improvements in the Enforcement Program because of the restructure. As a result, the CBA believes it has positioned itself to reestablish meeting PM3 and continues to work towards and more closely align with PM4.

### **Workforce Development**

The CBA believes that contributing toward the development of the CPA workforce directly relates to achieving its consumer protection mission, including its vision that “[a]ll consumers are well-informed and receive quality accounting services from licensees they can trust.”

The CBA's workforce development actions include timely application processing and educational outreach events to potential applicants.

#### **Timely Application Processing**

The CBA has established targeted timeframes for processing applications for examination and initial licensure that enable a qualified individual to quickly enter the profession.

As referenced in the 2016-2018 Strategic Plan, to maintain an effective and efficient program, the CBA's goal is to process these applications within 30 days.

#### Educational Outreach Events

The CBA's outreach program educates applicants on the examination, education, and experience requirements for licensure. In addition, this program helps licensees understand the requirements to maintain their practice rights, including their continuing education requirements and recent CBA enforcement activity.

The CBA uses the following communication channels to educate applicants and licensees:

- The CBA website
- UPDATE newsletter (published tri-annually)
- Conduct in-person licensing educational events
- Social media engagement through Facebook, Twitter, and LinkedIn

## **PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS**

The CBA was last reviewed in 2015. At that time, the Committees raised five issues with several recommendations. The following are actions that the CBA took over the last four years to address many of these issues.

#### Peer Review

- The CBA agrees with the Committee's recommendation to continue the Peer Review Program. With the ongoing changes to generally accepted accounting principles and auditing standards, the Peer Review Program plays an important consumer protection role in ensuring accounting firms, including a sole proprietorship, maintain current knowledge of professional standards and are more likely to deliver high-quality accounting and auditing services to consumers.
- The Peer Review Program is an essential tool in the CBA's mission to protect consumers by ensuring that only qualified licensees are practicing public accountancy and providing services to California consumers. It builds trust in the quality and integrity of California's CPAs. The Peer Review Program plays an important consumer protection role through the enforcement component, ensuring that only qualified firms are providing services to California consumers. In the case of substandard peer reviews, the CBA's Enforcement Program completes a deeper review of the firms and their practices as discovered through the Peer Review Program. Consumer protection is increased through monitoring and educating firms to promote quality in the accounting and auditing services they provide.

#### Disciplinary Case Management

- The CBA performed a significant restructure of its Enforcement Program in the furtherance of its mission to protect consumers and developed efficiencies to keep up with the growing volume of complaints received, conduct more timely investigations, increase participation in field investigations, and monitor more closely licensees on probation.
- Presently, the performance measure for formal discipline sits at 865 days. During the four-fiscal year period for this Sunset Review this performance measure fluctuated – 913 days (fiscal year 2014-15, 807 days (fiscal year 2015-16), 965 days (fiscal year 2016-17), and 865 days (fiscal year 2017-18). Leading into the present sunset reporting period, the CBA accrued a large volume of cases that resulted in many cases aging beyond the established performance measure target. The CBA recognized this phenomenon was occurring and took active steps to mitigate the impact on the increased targets.
- Permanent Practice Restrictions Business and Professions Code section 5100.5 became effective January 1, 2016, allowing the CBA to permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a license, which prohibits the licensee from performing or engaging in any of the acts or services

that constitute the practice of public accountancy, as described in Business and Professions Code section 5051.

- Since enactment of Business and Professions Code section 5100.5, the CBA has taken action on 131 disciplinary cases. Excluding the enforcement matters that resulted in revocation or surrender of the license, 77 matters resulted in a license being placed on probation. Of these 77 matters, 33 (or 43 percent) included a permanent practice restriction.

#### Reserve Fund

- To address the imbalance between expenditures and revenues and, in line with the Legislature's recommendation to maintain 24 months in reserve, the CBA conducted two analyses on its fee structure between March 2015 and November 2017.
- The CBA initiated a rulemaking to restore the license renewal fee to the \$200 level, which previously existed in 2011. This was intended to increase the CBA's reserve levels. The Department of Finance, however, did not approve the rulemaking and, as a result, the license renewal fee of \$120 was reinstated beginning July 1, 2016.
- At the CBA's January 2018 meeting, a rulemaking was initiated to increase the license renewal and initial permit fees from \$120 to \$250.
- As discussed below, in Issue #1, the CBA is seeking an increase in the statutory maximum for its license renewal and initial permit fees.

#### Consumer Satisfaction

- Since the prior Sunset Review, satisfaction with the CBA's enforcement processes expressed in the DCA Consumer Satisfaction survey has increased significantly. Between that four-year period (fiscal years 2013-14 to 2017-18), an average of 65 percent of survey respondents gave the CBA a rating of "Very Good" or "Good" regarding the handling of their complaint.

## **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 profession, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

### **FISCAL ISSUE**

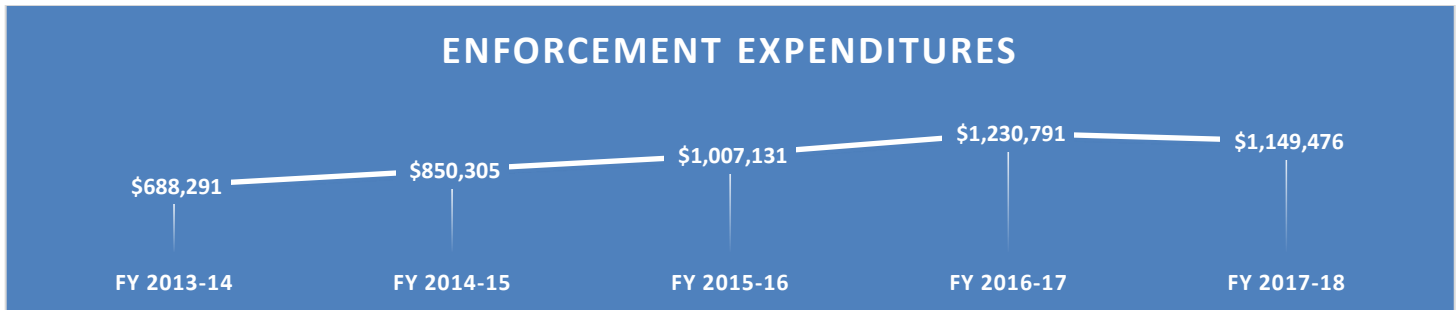
#### **ISSUE #1: Should the Legislature increase the CBA's statutory maximum for license renewal and initial permit fees?**

**Background:** During the CBA's Sunset Review in 2015, the Legislature expressed concern regarding whether the CBA would be capable, from both a funding and staffing perspective, of investigating and prosecuting a case against a large accountancy firm. In responding to this concern, the CBA conveyed that it is authorized, pursuant to Business and Profession Code sections 5025.1 and 5025.2, to obtain additional funding and resources it may need to address enforcement matters.

Business and Profession Code section 5025.1, which the CBA uses regularly, allows the CBA to contract with CPAs as consultants and experts to assist in investigation and prosecution of enforcement matters. Business and Profession Code section 5025.2 provides the CBA \$2 million of additional expenditure authority from its reserve to fund unanticipated enforcement and litigation activities.

The CBA must prepare for additional increases in enforcement overhead costs (Attorney General, Office of

Administrative Hearings, court reporters, witness fees). In the prior three fiscal years, the CBA has spent over \$100,000 in expert witness costs. These have been used in investigating complaints or providing expert testimony in various cases. Costs with the Attorney General increased nearly 20 percent in fiscal year 2016-17. Overall enforcement costs have nearly doubled since fiscal year 2013-14.



In response to the Legislative guidance received during the prior Sunset Review, the CBA initiated two attempts to increase its fees to reach the 24 months in reserve level. The first attempt was not approved as the CBA was preparing to receive repayment of loans from the General Fund which would have a positive impact on the reserve fund level. In June 2017, the CBA received full repayment of all loans. The CBA is, however, presently operating on a yearly negative cash flow, which is drawing significant funds from its reserve. The CBA is projected to have an approximate 16 month spending reserve at the end of fiscal year 2018-19.

The CBA is pursuing a second fee increase via regulation to balance its revenues and expenditures. This second attempt will place the CBA at its statutory maximum level of \$250. Provided this regulatory proposal is approved, the CBA will be at the statutory maximum for the license renewal and initial permit fee.

To ensure there is sufficient flexibility in the event the CBA needs to pursue a fee increase in the future, to address enforcement or operational needs, the CBA is seeking to increase the statutory maximum for its license renewal and initial permit fee from \$250 to \$500. The CBA's present statutory maximum of \$250 has been in existence for approximately 30 years. The new level would provide sufficient growth for future years.

***Staff Recommendation:*** *The CBA should explain to the Committees why it believes the increase of \$250, is warranted. In addition, explanation around implementation and timing needs to be addressed.*

### **ENFORCEMENT ISSUE**

**ISSUE #2:** Should the CBA be allowed to consider certain applicants' past actions as grounds for the denial of an application for CPA licensure?

**Background:** During the 2018 legislative year, the Legislature passed Assembly Bill 2138 (Chiu, Chapter 995). Assembly Bill 2138 recast how Department of Consumer Affairs boards/bureaus evaluate applications for initial licensure, especially related to weighing past criminal convictions. Assembly Bill 2138 takes effect July 1, 2020.

The CBA believes it is a laudable goal to assist individuals with a criminal history to obtain gainful employment and provide them a more clear understanding of how a Department of Consumer Affairs board evaluates past criminal convictions. As Assembly Bill 2138 was a broad bill designed to effectuate change on all Department of Consumer Affairs boards and create a uniformity for how licensing bodies should consider applicants' past acts, the CBA believes that certain amendments to the statutory provisions governing the denial of an application, and more specifically an application for CPA licensure, unacceptably degrades the CBA's ability to meet its statutory mandate of consumer protection.

Two key areas the CBA strongly believes the Legislature should consider amending are:

- Reinstating the CBA's ability to deny an application for CPA licensure for administrative actions taken by federal regulators or foreign governments.
- Expand the CBA's ability to deny an application for CPA licensure for financial crimes

#### *Administrative Actions by Federal Regulators and Foreign Governments*

The CPA profession is unique, in that, in addition to licensure requirements imposed by individual states, the federal government also requires that CPAs register to practice, the most notable being the Securities and Exchange Commission and Public Company Accounting Oversight Board. The Securities and Exchange Commission and Public Company Accounting Oversight Board take administrative action for activities such as insider trading, fraud, filing false financial information, etc.

Presently, the CBA may consider administrative action taken by federal or foreign governments as a reason to deny licensure; however, with the passage of Assembly Bill 2138, effective July 1, 2020, the CBA will no longer be able to consider such administrative actions as a reason to deny licensure. If a CBA licensee committed this type of unprofessional conduct, they would likely be disciplined by the CBA.

#### *Financial Crimes*

In the final days of the legislative session, the authors amended the bill to grant authority to a select number of boards/bureaus within the Department of Consumer Affairs, including the CBA, to conduct a rulemaking to add certain financial crimes to the list of crimes not subject to the seven-year criminal history limitation in the bill. The rulemaking language in the bill requires these financial crimes to be "directly and adversely" related to the "fiduciary qualifications, functions, or duties" of a CPA.

While there are instances where the duties of CPAs or individuals include a fiduciary responsibility, many of the functions and duties a CPA performs for a client or an employer do not have a fiduciary component. As amended, the financial criminal convictions require an element that relate a fiduciary responsibility. This would severely limit the CBA's ability to deny an applicant for licensure with a past conviction of a financial crime.

For example, an individual employed as a controller or chief financial officer of a medical company could have been convicted of a financial crime related to fraudulent medical billings. In this circumstance, the individual does not have a fiduciary duty or function to the company and when viewed from the actions of a CPA would also not have a fiduciary duty or function. As a result, a significant financial crime would fall outside of the scope of the CBA's ability to deny licensure.

Additionally, this section institutes a new term "directly and adversely" as the relationship test. Historically and, for that matter, throughout the rest of the amendments brought about by Assembly Bill 2138, the term of "substantially related" is used as the relationship test. During the early stages of the legislative session, Assembly Bill 2138 did replace the term "substantial relationship" with "directly and adversely;" however, as the bill was amended the relationship test was returned to "substantial relationship."

The CBA requests that the CBA be allowed to consider the denial of an application for CPA licensure if the applicant was convicted of a financial crime that is substantially related to the qualifications, functions, or duties of the CPA profession.

***Staff Recommendation:*** *Based upon conversations with Stakeholders and others staff recommend that it is not advisable to support the reversal back to "substantially related" or exempting CBA from that provision of the legislation in AB 2138. Reverting back to a "substantially related" standard for denial of licensure would weaken the effect of AB 2138 by allowing crimes that are only vaguely connected to a person's application for a license to be used as a basis for denying licenses once again.*

*However, the Committees should be comfortable with removing the term “fiduciary” and allowing CBA to consider federal and foreign government agencies and the Public Company Accounting Oversight Board disciplinary action when reviewing a licensure application. CBA should explain to the Committee why they believe this will be beneficial to the profession.*

**ISSUE #3: The CBA lacks automation and on-line services, which has impacted processing timeframes and its level of customer service. Does the Board have a plan to address this issue?**

**Background:** The CBA’s internal processes for licensing and enforcement are generally manual and its automated functions are few and limited. The CBA uses the Department of Consumer Affairs’ antiquated database system, Consumer Affairs System or CAS, and several internal stand-alone legacy databases as workarounds to address workload demand. Until a singular and integrated Information Technology system is developed and used, the CBA will continue to rely on a patchwork set of systems.

The CBA is in BreEZe Release 3, which has now evolved to a Business Modernization Project. The Business Modernization Project has the same goal as BreEZe, which is to create/transition to a single enforcement and licensing database system that provides internal automation and online capabilities for CBA stakeholders. The Business Modernization Project differs from BreEZe in that instead of a one-size-fits-all approach, the CBA will select an Information Technology solution to fit its specific business needs.

The CBA has completed preliminary work on the Business Modernization Project. In July 2017, the CBA began discussions with the Department of Consumer Affairs Information Technology Management regarding timeframes, resources, and next steps necessary to transition to a new Information Technology solution. In December 2017, the CBA’s Business Modernization Report was completed and in August 2018 the CBA, in collaboration with the Department of Consumer Affairs, prepared its Stage 1 Business Analysis. The Stage 1 Business Analysis, which is a necessary step in the process to procure any Information Technology software and Information Technology solution, has been submitted to the California Department of Technology.

In July 2019, the CBA anticipates beginning identifying its business needs for a new information technology system. The CBA anticipates that it will transition from its patchwork systems to a singular system in fiscal year 2021-22. This timeframe is, however, contingent upon receiving additional staffing resources to address workload while current CBA subject matter experts are redirected to the Business Modernization Project.

Because a new licensing and enforcement system is years in the future, the CBA launched, in collaboration with the Department of Consumer Affairs, in December 2018, an interim online service to allow licensees to pay their renewal fees online with a credit card.

The CBA’s 2016-18 Strategic Plan states that the CBA is committed to developing and implementing technology solutions that ensure functionality and operational efficiency in response to consumer and licensee needs. The CBA has been anxiously awaiting a transition to an Information Technology solution that will address its significant automation needs for internal efficiencies and to address stakeholder needs for increased online capabilities.

**Staff Recommendation:** *CBA to report, at the hearing, on the current status of their efforts. The CBA is in the BreEZe Release 3, but with the support of, and collaboration with, the Department of Consumer Affairs, the CBA plans to develop a Business Modernization Project beginning in July 2019. The CBA will be able to select an information technology solution to fit its specific business needs, rather than attempting to change its processes to meet BreEZe requirements.*

*The Business Modernization Project has the same goal as BreEZe, which is to create/transition to a single*

*enforcement and licensing database system that provides internal automation and online capabilities for CBA stakeholders.*

### **ADMINISTRATION ISSUES**

**ISSUE #4:** The CBA is seeking to automate the delivery of its UPDATE newsletter to reduce its environmental impact and lower costs.

**Background:** The CBA is seeking authority to distribute its UPDATE newsletter in an electronic format. The CBA is presently required to mail a hard copy of its UPDATE newsletter as mandated by Business and Professions Code section 5008, which states the CBA “shall, from time to time, but not less than twice each year, prepare and distribute to all licensees, a report of the activities of the board ... and may likewise distribute reports of other matters of interest to the public and to practitioners.”

In 1986, the CBA published and distributed the first issue of its UPDATE newsletter to its licensee population. Since that time, the UPDATE newsletter has been published approximately three times per calendar year and contains important information about law and regulation changes, CBA and Committee meetings, new CBA programs, and information about enforcement, examination, licensure, and continuing education.

In mid-2018 a survey was conducted seeking stakeholder feedback regarding whether the CBA should eliminate the print version of the UPDATE newsletters. Seventy-one percent of the participants in the survey supported the elimination of the paper version and some individuals indicated the CBA should allow people to opt-in to continue receiving a print copy.

The CBA spent approximately \$280,000 in fiscal year 2017-18 on the printing, mailing, and postage costs for the UPDATE newsletter. This has increased 44 percent since fiscal year 2013-14 when the annual cost was approximately \$194,000.

The CBA is one of the very few licensing boards/bureaus under Department of Consumer Affairs that continues to print and mail its newsletter. Thirty-eight of the 41 Department of Consumer Affairs boards/bureaus do not print their newsletter and instead post it on their website. Technology has significantly evolved, and a shift has occurred throughout private industry and government to use paperless processes. Further, the popularity of electronic distribution of publications has increased.

As Business and Professions Code section 5008 requires the CBA to “prepare and distribute” to all licensees a report of the activities of the board, the CBA requests this section be amended in a manner to facilitate the electronic distribution method.

**Staff Recommendation:** *The CBA should explain to the Committees why automating delivery of its newsletter will be beneficial.*

**ISSUE #5.** To enhance its communication capabilities, the CBA is seeking authority to require its licensees to provide an email address.

**Background:** The CBA is seeking to require licensees provide an email address to increase communications and provide an additional method of contact.

In 2014, the CBA pursued a legislative proposal, which was included in Senate Bill 1467 (Chapter 400, Statutes of 2014), to authorize the CBA to collect, but not require, a valid email address at the time of application for, or renewal of,

a CPA license. This allowed an individual the opportunity to voluntarily provide the information. Staff use this information as an additional method of contact regarding any document/application that was submitted. As this provision is only optional, not every individual provides their email address to the CBA.

Recently, the CBA experienced challenges in properly serving documents to licensees with an address outside of the United States. The Attorney General's Office was able to resolve this with the use of email, as the licensees consented to accept the documents through email.

The use of email as a means of communication has increased significantly in both government and private industry – as well as for personal use. Requiring licensees to provide their email address will increase and streamline communications.

***Staff Recommendation:*** *The CBA should explain to the Committees the current situation which exists regarding communications efforts and how seeking email addresses would help efforts.*

#### **ISSUE #6.** Why is it necessary or beneficial to the CBA's operations to hire additional permanent staff?

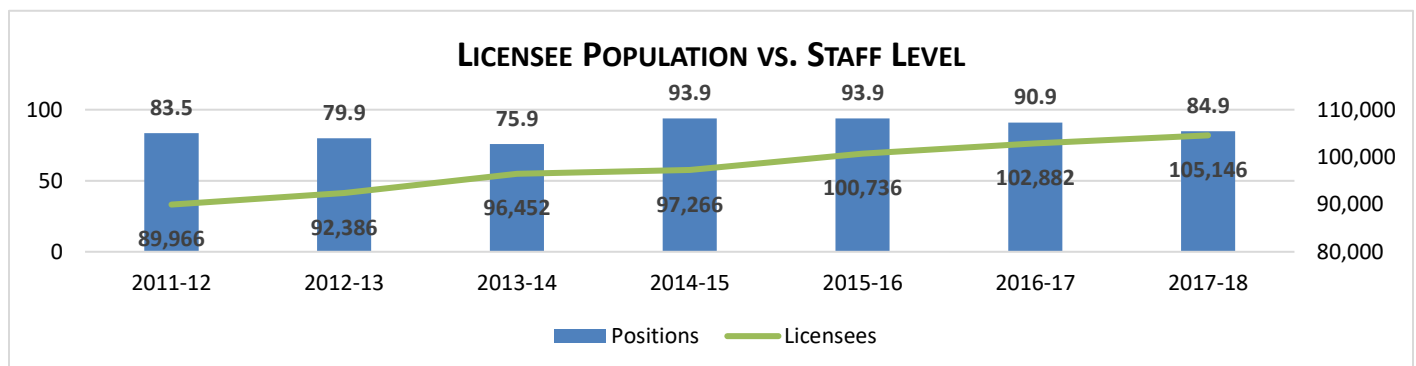
**Background:** Staff play a critical part in assisting the CBA to meet its mission of consumer protection and its mandate pursuant to Business and Professions Code section 5000.1, which states:

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

The CBA works diligently to ensure it has the appropriate staffing levels and resources to meet its consumer protection mission and stakeholder obligations. To enable the CBA to continue to meet its mission, reduce processing timeframes, and enhance programs and services, the CBA is seeking to establish permanent positions that will replace the use of temporary help.

The number of permanent staff has fluctuated in prior years due to many factors, including Administration directives for position reduction and staffing augmentations to address the enactment of new laws and implementation of programs. However, the CBA is presently operating at approximately the same permanent staff level as in fiscal year 2011-12.

During this same time the CBA's licensee population has increased nearly 20 percent. As the licensee population is



expected to continue to increase, workload will also grow. To address the workload, in the absence of permanent positions, the CBA employs temporary help. Temporary help can consist of seasonal clerks, intermittent positions or limited-term staff.

Although the use of temporary help has assisted the CBA in addressing its increasing workload needs, there is often high turnover creating instability, backlogs, and increased processing timeframes. Temporary help often seek permanent positions and as transition occurs, the CBA spends significant time on the recruitment and training of new temporary staff. The biggest impact during this continual transition is the increased processing timeframes and backlogs of work, primarily in the Licensing Program.

On average, the CBA has employed 18.5 temporary positions each year, however, it presently employs 17 temporary positions. Given the nature of temporary help positions, individuals in these positions look for opportunities to secure permanent positions, which, in turn, creates a high turnover rate. In fiscal year 2016-17, the CBA experienced a 44 percent turnover in its temporary help, with this rate growing to 53 percent in fiscal year 2017-18.

The CBA undertook a significant restructure of staff in 2016, and ensuring consumer protection remains its top priority, redirected 10 staff members to the Enforcement Program. The redirection addressed the increased volume of enforcement workload and processing timeframes for complaint resolution. There have been undeniable positive impacts of the use of permanent staff to address the Enforcement Program workload. The Enforcement Program experienced reduced processing timeframes for complaints, an increase in the number of cases that are referred to the Attorney General, and an increase in the number of disciplinary actions taken.

The redirected staff primarily came from the Licensing Program. The redirection, while positive for Enforcement, contributed to extended processing timeframes for examination and licensure applications. To address the workload demands, the Licensing Program began recruiting additional temporary help. While this has assisted the Licensing Program, it has not resolved the workload changes.

The temporary help employed at the CBA are addressing consistent and ongoing workload that is appropriately handled by permanent staff. The CBA is seeking permanent resources to replace its temporary help. It is anticipated that, if received, this will help to prevent future increases to its processing timeframes.

***Staff Recommendation:*** *The CBA should explain to the Committees why having permanent staff as opposed to temporary staff will assist in increasing workloads.*

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

**ISSUE #7.** (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:*** *The CBA should explain to the Committees why the continued regulation of the profession should be continued.*

## **DYNAMEX**

**ISSUE #8:** *Does the new test for determining employment status, as prescribed in the court decision **Dynamex Operations West Inc. v. Superior Court**, have any potential implications for licensees working in the accountancy as independent contractors?*

**Background:** In the spring of 2018, the California Supreme Court issued a decision in *Dynamex Operations West, Inc. v. Superior Court* (4 Cal.5th 903) that significantly confounded prior assumptions about whether a worker is legally an employee or an independent contractor. In a case involving the classification of delivery drivers, the California Supreme Court adopted a new test for determining if a worker is an independent contractor, which is comprised of three necessary elements:

- A. That the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact;
- B. That the worker performs work that is outside the usual course of the hiring entity's business; and
- C. That the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

Commonly referred to as the "ABC test," the implications of the *Dynamex* decision are potentially wide-reaching into numerous fields and industries utilizing workers previously believed to be independent contractors. Occupations regulated by entities under the Department of Consumer Affairs are no exception to this unresolved question of which workers should now be afforded employee status under the law. In the wake of *Dynamex*, the new ABC test must be applied and interpreted for licensed professionals and those they work with to determine whether the rights and obligations of employees must now be incorporated.

**Staff Recommendation:** *The CBA should inform the committees of any discussions it has had about whether the **Dynamex** decision may somehow impact the current practice of accountancy.*