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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.*)

CHAPTER 1. Accountants [5000 - 5158] (*Chapter 1 repealed and added by Stats. 1945, Ch. 1353.*)

ARTICLE 1. Administration [5000 - 5025.3] (*Article 1 added by Stats. 1945, Ch. 1353.*)

5000. (a) There is in the Department of Consumer Affairs the California Board of Accountancy, which consists of 15 members, 7 of whom shall be licensees, and 8 of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

(b) The Governor shall appoint four of the public members, and the seven licensee members as provided in this section. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint two public members. In appointing the seven licensee members, the Governor shall appoint individuals representing a cross section of the accounting profession.

(c) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

(d) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature. However, the review of the board shall be limited to reports or studies specified in this chapter and those issues identified by the appropriate policy committees of the Legislature and the board regarding the implementation of new licensing requirements.

(Amended by Stats. 2024, Ch. 586, Sec. 1. (AB 3251) Effective January 1, 2025. Repealed as of January 1, 2029, by its own provisions.)

5000.1. 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.

(Added by Stats. 2002, Ch. 107, Sec. 23. Effective January 1, 2003.)

5000.5. No public member shall be a current or former licensee of the board or an immediate family member of a licensee, or be currently or formerly employed by a public accounting firm, bookkeeping firm, or firm engaged in providing tax preparation as its primary business, or have any financial interest in the business of a licensee. Each public member shall meet all of the requirements for public membership on the board as set forth in Chapter 6 (commencing with Section 450) of Division 1.

(Added by Stats. 2002, Ch. 231, Sec. 2. Effective January 1, 2003.)

5001. (a) Except as provided in subdivision (b), each member of the board, except the public members, shall be actively engaged in the practice of public accountancy and shall have been so engaged for a period of not less than five years preceding the date of his appointment. Each member shall be a citizen of the United States and a resident of this state for at least five years next preceding his appointment, and shall be of good character. Within 30 days after their appointment, the members of the board shall take and subscribe to the oath of office as prescribed by the Government Code and shall file the same with the Secretary of State.

(b) One licensee member appointed by the Governor may be an active educator within a program that emphasizes the study of accounting within a college, university, or four-year educational institution.

(Amended by Stats. 2003, Ch. 807, Sec. 3. Effective January 1, 2004.)

5002. Each member shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring shall be filled by appointment for the unexpired term of a person licensed in the same capacity as the person being replaced. No person shall serve more than two terms consecutively. The Governor shall remove from the board any member,

except a public member, whose permit to practice has become void, revoked or suspended. The Governor may, after hearing, remove any member of the board for neglect of duty or other just cause.

(Amended by Stats. 1971, Ch. 716.)

5003. The officers of the board are a president, vice president and a secretary-treasurer.

(Amended by Stats. 1959, Ch. 310.)

5004. The president, vice president, and secretary-treasurer shall be elected by the board for a term of one year from among its members at the time of the annual meeting. The newly elected president, vice president, and secretary-treasurer shall assume the duties of their respective offices at the conclusion of the annual meeting at which they were elected.

(Amended by Stats. 1996, Ch. 1137, Sec. 2. Effective January 1, 1997.)

5006. The officers of the board shall continue in office until their successors are elected and qualify.

(Added by Stats. 1945, Ch. 1353.)

5007. The president shall preside at all meetings of the board, and in the event of the president's absence or inability to act, the vice president shall preside. If both the president and vice president are absent or unable to act, the secretary-treasurer shall preside at meetings of the board. The president may designate a board member who is not an officer to preside at a meeting of the board if all officers of the board are absent or unable to act at that meeting. Other duties of the president, vice president, and the duties of the secretary-treasurer, shall be such as the board may prescribe.

(Amended by Stats. 2021, Ch. 300, Sec. 1. (AB 298) Effective January 1, 2022.)

5008. The board 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, including amendments to this chapter and regulations adopted by the board, and may likewise distribute reports of other matters of interest to the public and to practitioners. The board may meet this requirement by electronically distributing these materials via email or making them available on the board's internet website.

(Amended by Stats. 2019, Ch. 359, Sec. 3. (AB 1521) Effective January 1, 2020.)

5009. The board shall compile and maintain, or may have compiled and maintained on its behalf, a register of licensees that contains information that the board determines is necessary for the purposes for which the board was established. The board shall make the register available to any licensee and to the public.

(Repealed and added by Stats. 1996, Ch. 639, Sec. 2. Effective January 1, 1997.)

5009.5. In the interest of protecting the privacy of applicants and licensees, an email address provided by applicants or licensees to the board pursuant to this chapter shall not be considered a public record and shall not be disclosed pursuant to Section 27 or pursuant to a request under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), unless required pursuant to a court order by a court of competent jurisdiction.

(Amended by Stats. 2022, Ch. 28, Sec. 8. (SB 1380) Effective January 1, 2023.)

5010. The board may adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the orderly conduct of its affairs and for the administration of this chapter. The regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 1985, Ch. 106, Sec. 6.)

5011. The board shall designate the location of its principal office and may establish branch offices in other locations.

(Added by renumbering Section 5016 by Stats. 1959, Ch. 310.)

5012. The board shall have a seal.

(Amended by Stats. 1965, Ch. 299.)

5013. The board shall keep records of all proceedings and actions by and before the board and before its committees. In any proceeding in court, civil or criminal, copies of those records certified as correct by the executive officer of the board under seal of the board shall be admissible in evidence and shall be prima facie evidence of the correctness of the contents thereof.

(Amended by Stats. 1984, Ch. 47, Sec. 37. Effective March 21, 1984.)

5015. The board may employ clerks, examiners and, except as provided by Section 159.5, other assistants in the performance of its duties, and pay salaries and necessary expenses.

(Amended by Stats. 1971, Ch. 716.)

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

This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

(Amended by Stats. 2024, Ch. 586, Sec. 2. (AB 3251) Effective January 1, 2025. Repealed as of January 1, 2029, by its own provisions.)

5016. A majority of the board shall constitute a quorum for the transaction of any business at any meeting of the board. Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). The board shall meet at the call of the president and executive officer, but not less than twice each year. Any two members of the board may request the executive officer to call a special meeting, and the executive officer, upon receiving that notice, shall call a meeting pursuant to the procedure prescribed herein.

(Amended by Stats. 2009, Ch. 307, Sec. 64. (SB 821) Effective January 1, 2010.)

5017. All meetings of the board shall be open and public, except that the board may hold executive sessions to deliberate on the decision to be reached upon the evidence introduced in a proceeding conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government Code.

The members of the board may hold executive sessions to prepare, approve, grade, or administer examinations and shall have jurisdiction or vote over these functions of preparing, approving, grading, or administering examinations in executive session as provided for in Section 11126 of the Government Code.

(Amended by Stats. 1986, Ch. 1226, Sec. 2.)

5017.1. The board shall post, within 10 days of board approval, the finalized minutes from meetings of the board that are open and public pursuant to Section 5017 on the board's internet website. The minutes shall remain on the board's internet website for at least three years. Providing a link on the internet website to the minutes shall satisfy this requirement.

(Amended by Stats. 2023, Ch. 510, Sec. 61. (SB 887) Effective January 1, 2024.)

5017.5. (a) The board shall provide a live audio or video broadcast, on its internet website, of each of its board meetings that are open and public.

(b) (1) If technical failure prevents the board from providing a live broadcast as specified in subdivision (a), that failure shall not constitute a violation of this section if the board exercised reasonable diligence in providing a live broadcast.

(2) Failure to provide a live broadcast of its board meetings due to technical failure shall not prohibit the board from meeting and taking actions.

(c) The recording of the live audio or video broadcast shall remain on the internet website for at least three years. Providing a link on the internet website to the recording of the live audio or video broadcast shall satisfy this requirement.

(Amended by Stats. 2023, Ch. 510, Sec. 62. (SB 887) Effective January 1, 2024.)

5018. The board may by regulation, prescribe, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession. In addition to the requirements contained in Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code, a copy of the rules shall be provided to every holder of a license under this chapter at least 30 days prior to a date named for a public hearing held for the purpose of receiving and considering objections to any of the proposed provisions. Every licensee of the California Board of Accountancy in this state shall be governed and controlled by the rules and standards adopted by the board.

(Amended by Stats. 2024, Ch. 586, Sec. 3. (AB 3251) Effective January 1, 2025.)

5019. Every applicant, when subscribing to an application for certificate or registration, shall acknowledge the fact that the applicant has read and understands the rules of professional conduct adopted by the board.

(Repealed and added by Stats. 2012, Ch. 661, Sec. 2. (SB 1576) Effective January 1, 2013.)

5020. The board may, for the purpose of obtaining technical expertise, appoint an enforcement advisory committee of not more than 13 licensees to provide advice and assistance related to the functions specified in Section 5103. The committee shall act only in an advisory capacity, shall have no authority to initiate any disciplinary action against a licensee, and shall only be authorized to report its findings from any investigation or hearing conducted pursuant to this section to the board, or upon direction of the board, to the executive officer.

(Amended by Stats. 2010, Ch. 415, Sec. 1. (SB 1491) Effective January 1, 2011.)

5021. The members of the enforcement advisory and qualifications committees shall hold office for two years.

(Amended by Stats. 2010, Ch. 415, Sec. 2. (SB 1491) Effective January 1, 2011.)

5022. The qualifications committee shall make recommendations and forward its report to the board for action on any matter on which it is authorized to act. An applicant for registration as a certified public accountant who is aggrieved by any action taken by the committee with respect to their qualifications may appeal to the board in accordance with rules or regulations prescribed by the board. The board on the appeal may give an oral or written examination as an aid in determining whether the applicant is qualified under the terms of this chapter.

(Amended by Stats. 2023, Ch. 510, Sec. 63. (SB 887) Effective January 1, 2024.)

5023. The board may establish a qualifications committee of its own certified public accountant members or other certified public accountants of the state in good standing, to perform the following advisory duties:

(a) To examine the qualifications of all applicants for the license of certified public accountant.

(b) To recommend to the board applicants for the certified public accountant license who fulfill the requirements of this chapter.

(Amended by Stats. 2009, Ch. 307, Sec. 67. (SB 821) Effective January 1, 2010.)

5024. The board may create and appoint advisory committees, consisting solely of board members or consisting of board members and other persons who are not board members, for the purpose of making recommendations on matters as may be specified by the board.

(Amended by Stats. 2010, Ch. 415, Sec. 3. (SB 1491) Effective January 1, 2011.)

5025.1. (a) The board may contract with and employ certified public accountants and public accountants as consultants and experts to assist in the investigation and prosecution of judicial and administrative matters.

(b) Contracts made pursuant to this section are not subject to Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, except that the board shall apply the standards set forth in Section 19130 in awarding personal service contracts under this section.

(c) Notwithstanding any other provision of law, the board may contract with these consultants and experts on a sole source basis.

(d) If a person, not a regular employee of the board, is hired or under contract to provide expertise to the board in the evaluation of the conduct of a licensee, and that person is named as a defendant in a civil action for defamation, tortious interference with prospective business advantage, or other civil causes of action directly resulting from opinions rendered, statements made, or testimony given to the board, its committees, staff, legal counsel, or other representatives, or in any proceeding instituted by the board or to which the board is a party, the board shall provide for representation required to defend that person in that civil action and shall indemnify that person for any judgment rendered against him or her. This right of defense and indemnification shall be the same as, and no greater than, the right provided to a public employee pursuant to Section 825 of the Government Code. Nothing herein shall be construed as expanding or limiting any immunity from liability otherwise provided by law.

(e) On or before June 1 of each year, the board shall report to the appropriate policy and fiscal committees of each house of the Legislature the terms of the contract or contracts entered into each fiscal year pursuant to this section. The report shall include the cost, services, terms and duration provided under each contract, the identity of the firms or individuals awarded any contract, and data demonstrating the cost effectiveness of the board's sole-source contracting in the investigation and prosecution of the board's enforcement programs.

(Added by Stats. 1994, Ch. 44, Sec. 1. Effective April 19, 1994.)

5025.2. (a) The Legislature finds that there are occasions when the California Board of Accountancy urgently requires additional expenditure authority in order to fund unanticipated enforcement and litigation activities. Without sufficient expenditure authority to obtain the necessary additional resources for urgent litigation and enforcement matters, the board is unable to adequately protect the public. Therefore, it is the intent of the Legislature that, apart from, and in addition to, the expenditure authority that may otherwise be established, the California Board of Accountancy shall be given the increase in its expenditure authority in any given current fiscal year that is authorized by the Department of Finance pursuant to the provisions of subdivision (b) of this section, for

costs and services in urgent litigation and enforcement matters, including, but not limited to, costs for professional and consulting services and for the services of the Attorney General and the Office of Administrative Hearings.

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

(Added by Stats. 2004, Ch. 921, Sec. 3. Effective January 1, 2005.)

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

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

(Added by Stats. 2004, Ch. 921, Sec. 4. Effective January 1, 2005.)