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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 6. Professional Fiduciaries [6500 - 6592] (*Chapter 6 added by Stats. 2006, Ch. 491, Sec. 3.*)

ARTICLE 5. Enforcement and Disciplinary Proceedings [6580 - 6584] (*Article 5 added by Stats. 2006, Ch. 491, Sec. 3.*)

6580. (a) (1) The bureau may upon its own, and shall, upon the receipt of a complaint from any person, investigate the actions of a professional fiduciary, including a person with a license that either restricts or prohibits the practice of that person as a professional fiduciary, including, but not limited to, a license that is retired, inactive, canceled, or suspended.

(2) The bureau shall investigate a professional fiduciary's alleged violation of statute, regulation, or the Professional Fiduciaries Code of Ethics and any other complaint referred to it by the public, a public agency, or the department, and shall impose sanctions upon a finding that the professional fiduciary did any of the following:

(A) Breached a legal or fiduciary duty to a client and thereby caused financial or physical harm or mental suffering to the client.

(B) Abused an elder or a dependent adult client, as defined in Section 15610.07 of the Welfare and Institutions Code.

(C) Violated a statute or regulation related to this chapter.

(3) Paragraph (2) applies, but is not limited to, all of the following referrals:

(A) (i) A report from a court that the court has taken any of the following actions:

(I) Imposed a penalty on the professional fiduciary, as provided in subdivision (d) of Section 1051 of the Probate Code.

(II) Removed the professional fiduciary as a conservator or guardian for cause, as provided in paragraph (3) of subdivision (c) of Section 2653 of the Probate Code.

(III) Determined that the professional fiduciary has abused a conservatee, as provided in subdivision (a) of Section 2112 of the Probate Code.

(ii) The report from the court pursuant to this subparagraph shall include a copy of the court's finding and order and may include other supporting documentation. However, failure of the court to provide supporting documentation does not relieve the bureau of its duty to take action.

(B) A certified copy of a judicial or administrative finding that a professional fiduciary's violation of law, breach of fiduciary duty, or abuse, as defined in Section 15610.07 of the Welfare and Institutions Code, caused harm to a conservatee or ward in their care.

(4) If a court makes a referral described in paragraph (2), the court shall provide the bureau, at no charge, with access to the information, including confidential information, regarding its investigation of the professional fiduciary that is contained in court records. The bureau shall not disclose any confidential information contained in court records and shall use that information only for purposes of investigating allegations against the professional fiduciary or in a criminal, civil, or administrative proceeding brought by the bureau against the professional fiduciary. Confidential information derived from a court record and filed in a criminal, civil, or administrative proceeding shall be kept in the confidential portion of the court case file. If the bureau does not bring a criminal, civil, or administrative proceeding against the professional fiduciary as a result of the allegation, the bureau shall

destroy the records in its possession that contain confidential information as soon as it determined that no further action will be taken regarding the allegations. This paragraph does not affect the admissibility of confidential information as evidence in a criminal proceeding.

(b) Sanctions shall include any of the following:

(1) Administrative citations and fines as provided in Section 125.9 for a violation of this chapter, the Professional Fiduciaries Code of Ethics, or any regulation adopted under this chapter.

(2) License suspension, probation, or revocation.

(c) The bureau shall provide on its internet website information regarding sanctions imposed by the bureau on licensees, including, but not limited to, information regarding citations, fines, suspensions, and revocations of licenses or other related enforcement action taken by the bureau relative to the licensee.

(d) The bureau shall revoke the professional fiduciary's license if it finds that the professional fiduciary did either of the following:

(1) Knowingly, intentionally, or willfully breached a legal or fiduciary duty to an elder or dependent adult client that constitutes abuse of the client, as defined in Section 15610.07 of the Welfare and Institutions Code.

(2) Caused serious physical or financial harm or mental suffering to a client through gross negligence or gross incompetence.

(Amended by Stats. 2021, Ch. 417, Sec. 2. (AB 1194) Effective January 1, 2022.)

6581. A licensee, or an agent working on behalf of a licensee, including an attorney, shall not bill a client or impose a fee on the estate or trust of a client for responding to a complaint filed with the bureau against the licensee.

(Added by Stats. 2018, Ch. 681, Sec. 6. (AB 3144) Effective January 1, 2019.)

6581.1. Aiding or abetting an unlicensed person to evade the provisions of this chapter, or combining or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as an agent or partner, associate, or otherwise of an unlicensed person, with the intent to evade the provisions of this chapter constitutes a cause for disciplinary action.

(Added by Stats. 2023, Ch. 680, Sec. 12. (AB 1262) Effective January 1, 2024.)

6582. All proceedings against a licensee for any violation of this chapter or any regulations adopted by the bureau shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall be prosecuted by the Attorney General's office, and the bureau shall have all the powers granted therein.

(Added by Stats. 2006, Ch. 491, Sec. 3. Effective January 1, 2007.)

6582.2. (a) Notwithstanding Section 6582 and Section 11415.60 of the Government Code, the bureau may enter into a settlement with a licensee or applicant instead of the issuance of an accusation or statement of issues against that licensee or applicant.

(b) The settlement shall identify the factual basis for the action being taken and the statutes or regulations violated.

(c) Any settlement with a licensee executed pursuant to this section shall be considered discipline and a public record and shall be posted on the bureau's Internet Web site. Any settlement with an applicant executed pursuant to this section shall be considered a public record and shall be posted on the bureau's Internet Web site.

(Added by Stats. 2011, Ch. 448, Sec. 17. (SB 543) Effective January 1, 2012.)

6582.5. Notwithstanding Section 6582, if any violation occurs, in its discretion, the bureau may refer the case to the Attorney General or to the local district attorney for criminal prosecution. The referral of a case for criminal prosecution shall not preclude the bureau from taking any other action provided for in this chapter.

(Added by Stats. 2006, Ch. 491, Sec. 3. Effective January 1, 2007.)

6583. The bureau shall establish a system of administrative citations and fines under Section 125.9 for violations of this chapter, the Professional Fiduciaries Code of Ethics, or any regulation adopted under this chapter.

(Added by Stats. 2006, Ch. 491, Sec. 3. Effective January 1, 2007.)

6584. A license issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:

- (a) Conviction of any felony or any misdemeanor, if the misdemeanor is substantially related to the functions and duties of a professional fiduciary. The record of conviction, or a certified copy thereof, is conclusive evidence of the conviction.
- (b) Failure to notify the bureau of a conviction as required by paragraph (10) of subdivision (a) of Section 6561.
- (c) Fraud or misrepresentation in obtaining a license.
- (d) Fraud, dishonesty, corruption, willful violation of duty, gross negligence or incompetence in practice, or unprofessional conduct in, or related to, the practice of a professional fiduciary. For purposes of this section, unprofessional conduct includes, but is not limited to, acts contrary to professional standards concerning any provision of law substantially related to the duties of a professional fiduciary.
- (e) Failure to comply with, or to pay a monetary sanction imposed by, a court for failure to provide timely reports. The record of the court order, or a certified copy thereof, is conclusive evidence that the sanction was imposed.
- (f) Failure to pay a civil penalty relating to the licensee's professional fiduciary duties.
- (g) The revocation of, suspension of, or other disciplinary action against, any other professional license by the State of California or by another state. A certified copy of the revocation, suspension, or disciplinary action is conclusive evidence of that action.
- (h) Violation of this chapter or of the applicable provisions of Division 4 (commencing with Section 1400), Division 4.5 (commencing with Section 4000), Division 4.7 (commencing with Section 4600), or Division 5 (commencing with Section 5000) of the Probate Code or of any of the statutes, rules, or regulations pertaining to duties or functions of a professional fiduciary.

(Added by Stats. 2006, Ch. 491, Sec. 3. Effective January 1, 2007.)