



# Real Estate Bulletin

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS • BUREAU OF REAL ESTATE

FALL 2014

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Wayne S. Bell  
Commissioner

## *Commissioner's Message*

### 'The Professional Movement': Its Importance and a Discussion About What Makes a Real Estate Practitioner a Professional

In my last message, I talked about the evolution of the California real estate license law, and the noble and forward-thinking efforts of organized real estate to promote the elevation of the character and *professionalism* of the licensed practice and business of real estate, in all its forms, in this State.

In *The Realty Blue Book of California* (The Keystone Publishing Co., 1924), there is an entire section devoted to "The Professional Movement." In that segment, the authors wrote about their perspectives on what constituted the pieces that made for "professionalism" in the real estate business.

The prominent points discussed were the passage of the real estate law, real estate education and coursework, the creation of ethical standards and the national code of ethics ("founded on the Golden Rule and the Square Deal"<sup>1</sup>), the dissemination of authoritative articles on real estate matters through the industry's *California Real Estate* magazine, a "new development of professional consciousness," and a call for real estate industry boards "to develop new and higher standards of professional service."<sup>2</sup>

In the 90 years since those ideas, concepts, and perspectives were written and shared, the ethics rules and license laws have been expanded and enhanced, educational offerings and articles on real estate and related matters have flourished, discussions about "professionalism" have occurred Statewide (including at the California Department and now Bureau of Real Estate), and real estate boards and associations have been actively involved in elevating the practices of their members.

Nevertheless, when I do outreach throughout California, I am told by real estate practitioners and consumers that some real estate licensees are unqualified and/or *unprofessional*. In that context, I am frequently asked what I can do, as the Real Estate Commissioner, to make licensed real estate practitioners more professional.

Interestingly, in a profile entitled "Increasing Professionalism One Broker at a Time," in the June/July 2014 edition of the *California Real Estate* magazine, Steve Brown, the current President of the National Association of Realtors, states that he is "most often asked about raising professionalism throughout the industry."<sup>3</sup> Mr. Brown says that he is

(Continued on page 6)

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## Course Provider and Instructor Disciplined: Course Approvals Withdrawn

In a decision effective May 28, 2014, the Real Estate Commissioner withdrew the approval to provide continuing education (CE) course offerings from course provider The Career Compass, and withdrew the approval to serve as an instructor of CE course offerings from The Career Compass's instructor Wellington Pendell. This decision came after a hearing was conducted in case numbers H-4486 SD and H-4487 SD, wherein The Career Compass and Mr. Pendell were found to have violated Commissioner's Regulations, sections 3006(b), 3006(d), 3006(f)(2), 3007(j), 3007.3(n), and 3010 of Title 10 of the California Code of Regulations.

In brief summary, The Career Compass and Mr. Pendell, on two separate occasions had not ensured that licensees were physically present for at least 90 percent of their live course offerings. They subsequently issued CE course completion certificates to those licensees without requiring that licensees take and pass a final examination. In addition, the CE course completion certificates issued to the licensees contained incorrect information. Mr. Pendell was found to no longer be qualified as an instructor due to his violations of the regulations as mentioned above.

All licensees are encouraged to perform due diligence when searching for an approved CE provider. The Bureau of Real Estate (Bureau) website provides several opportunities to check out course providers and see if any disciplinary action has been taken against them. To view the current list of disciplined course providers and see their hearing documents, including The Career Compass's, go to [www.bre.ca.gov/Licensees/CourseProviderActions.html](http://www.bre.ca.gov/Licensees/CourseProviderActions.html).

Before signing up and paying a registration fee for a CE course, go to <http://secure.dre.ca.gov/publicasp/cecontinue.asp> and type in the course provider's name. Only the currently approved courses for a course provider will populate under this search. If you do not see a course listed that you have been solicited by a course provider to attend for CE credit or you have taken a CE course that was conducted improperly, please notify the Bureau

## New 'Community-Based' Outreach Program Focuses on Information Sharing, Communication, and Engagement with Licensees

By Wayne S. Bell, Real Estate Commissioner

As you know from a number of my prior communications, we at the California Bureau of Real Estate (CalBRE) are committed to outreach. This includes improving communications and engagement with, and providing helpful resources to, the general public and real estate licensees.

With regard to real estate practitioners, this means community and field outreach by CalBRE to introduce ourselves to and engage with our licensees, and to provide information on the breadth of information, tools, and services that CalBRE offers.

The model that we have adopted and begun to implement Statewide via broker-office visits is akin to what law enforcement does through community-based policing, and it recognizes the reality that CalBRE cannot, because of its limited staff resources, effectively deal with industry-related enforcement issues alone. We must reach out to, communicate with, and engage with industry members who share with us a responsibility for helping to ensure a competent and law-abiding real estate marketplace.

To be very clear, the purpose of the outreach visits is not investigative, and there is no intent to seek out or look for violations of the Real Estate law. The offices visited are chosen randomly by district office representatives.

In addition to focusing on field outreach (like “walking a geographical beat”) and communication between CalBRE and licensees, this community-based model also stresses education, problem identification and solving, and (we hope) timely intervention or collaborative involvement to deal with developing issues.

From a practical standpoint, our hope is that this approach will help provide CalBRE’s licensees and the organized real estate industry with:

1. A voice in how the Real Estate Law will be enforced.

2. The identification of, and proactive resolution to, recurring industry problems or issues.
3. A better understanding of CalBRE’s capabilities and limitations.
4. Working relationships with CalBRE representatives.

Moreover, we believe this new effort will help enable those of us at CalBRE who are responsible for licensing and regulating the industry to:

1. More efficiently and effectively use CalBRE resources.
2. Be more responsive to industry issues as they arise.
3. Develop improved communication channels.
4. Obtain better, more complete and more expeditious information about the efficiency and effectiveness of CalBRE’s enforcement efforts.

So please do not be surprised to see, and please welcome, representatives from CalBRE who come to your offices for communication and outreach. The representative(s) will likely bring a packet of materials for your use, and the packet might include CalBRE’s *Broker Evaluation Compliance Manual*, which provides an easy-to-follow compliance checklist to help licensees stay compliant with the Real Estate Law, various relevant publications for licensees, and contact information for the CalBRE representative(s) who made the office contact.

We invite you to let any of CalBRE’s representative(s) (including CalBRE’s executive team) know what you think of the new program, and what other tools, materials, or resources would be of benefit to you. Additionally, we invite and urge you to ask questions and open the lines of communication to CalBRE and its field representatives—and to share with us information about recurrent or outstanding industry problems that we can help to address and resolve.



## Mandated Posting of License Status and Disciplinary Actions

### CalBRE's Implementation of Business & Professions Code Section 10083.2

In 2011, Governor Brown signed SB 706 (Price), which, effective January 1, 2012, enacted Business and Professions Code (“Section 10083.2”). Section 10083.2 requires CalBRE, in pertinent part, to provide public information on the Internet regarding the status of every license issued by CalBRE in accordance with the California Public Records Act and the Information Practices Act of 1977. Prior to the effective date of SB 706 and the required online posting of certain public information, consumers were able to access the information only by calling or writing to CalBRE or going to a CalBRE office and requesting the information.

Pursuant to the authority set forth in (and as expressly required by) Section 10083.2, CalBRE posts to a licensee’s online license record the public information associated with any license disciplinary action taken by CalBRE against the licensee. (CalBRE’s website is [www.bre.ca.gov](http://www.bre.ca.gov).) The public information posted on CalBRE’s website includes disciplinary and formal action documents such as Statements of Issues, Accusations, Final Orders, Desist & Refrain Orders, and Stipulations.

From time to time, CalBRE receives requests to remove the links to public information and/or certain information contained in the disciplinary and formal action documents. The most common reasons underlying those requests include the following: (1) the public information negatively affects a licensee’s business and livelihood; (2) the public information shows up as listings in search engines and raises questions and doubts about a person by members of the public; (3) the underlying conviction that led to the discipline or formal action has been expunged; and (4) the discipline and/or formal action, or underlying conviction happened “a long time ago.”

The information posted on CalBRE’s website is a public record (available to any member of the public who otherwise requests it), and the fact of a conviction (for a licensing entity such as CalBRE) and the discipline documents mentioning the conviction are a public record. Section 10083.2 does not provide for the deletion or blocking of access to information contained in disclosable public records, and CalBRE will not remove public information from its website. Furthermore, unlike the statutory provisions applicable to the Medical Board of California, another licensing agency, which set a time limit for posting public information<sup>1</sup>, Section 10083.2 does not have any provisions imposing a time limit on CalBRE for providing such public information.

CalBRE will most certainly continue to receive requests to remove certain public information pertaining to criminal convictions and/or discipline from its website. When it does, CalBRE will continue to be unable to comply with those requests. Without either a court order or a modification to Section 10083.2 by the Legislature that specifies the removal of certain information (e.g., a conviction within some period of time after it is expunged) or a time limit for posting public information, CalBRE will continue to implement Section 10083.2 in accordance with its current practice and will not remove public information from its website.

<sup>1</sup> While the Medical Board of California had been removing public information from its website that was beyond the established time limit, Governor Brown has recently signed AB 1886 which, effective January 1, 2015, requires the Board to post information on serious disciplinary actions against doctors indefinitely.

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#### COURSE PROVIDER (CONTINUED FROM PAGE 2)

by sending an Education Provider Complaint (RE 340) form at [www.bre.ca.gov/files/pdf/forms/re340.pdf](http://www.bre.ca.gov/files/pdf/forms/re340.pdf). The Education and Research Section can be contacted for questions or concerns at (916) 263-8703.




Don’t get caught by surprise at renewal time only to find out that the courses you took were not valid—be diligent and do your research!

## Do You Need Health Insurance?

No one plans to get sick or get into an accident, but most people need medical care at some point. Did you know that the average cost of a three-day hospital stay is \$30,000\*? Or that fixing a broken leg can cost up to \$7,500\*? Health insurance can protect you and your family from unexpected medical costs and give you peace of mind.

Covered California™ is our state's marketplace where you and your family can compare affordable, quality health insurance options and choose the one that best fits your needs and budget. You may even be able to get financial assistance. The table below shows income levels that make you eligible for help paying for a Covered California health plan, or for Medi-Cal, California's Medicaid health care program.

### See if you may be eligible for financial assistance:

		
Number of people in your household	If your 2015 household income is less than ...	If your 2015 household income is between ...
1	\$16,105	\$16,105–\$46,680
2	\$21,708	\$21,708–\$62,920
3	\$27,311	\$27,311–\$79,160
4	\$32,913	\$32,913–\$95,400
5	\$38,516	\$38,516–\$111,640
	You may be eligible for Medi-Cal	You may be eligible for financial help to purchase insurance through Covered California

**Open enrollment for 2015 health insurance plans through Covered California begins November 15, 2014, and ends February 15, 2015.**

For those who experience a life-changing event after enrollment, such as getting married, having a child, or moving, you can update your coverage. Covered California also helps make the enrollment process easier by offering in-person assistance. There are experts in your community who will take you through the enrollment process.

To learn more or to apply, visit [www.coveredca.com](http://www.coveredca.com).

\*approximate figures from [healthcare.gov](http://healthcare.gov)





#### COMMISSIONER'S MESSAGE (CONTINUED FROM PAGE 1)

focusing on broker-based efforts to boost their agents' professionalism and on increased involvement in "professional" training programs.<sup>4</sup>

I am fully supportive of and enthusiastically endorse Mr. Brown's aims and suggested approaches regarding professionalism.

In talking with myriad individuals involved in all aspects of the real estate business in California, I have concluded that professionalism is crucial to the real estate industry.

Indeed, professionalism is what is expected by real estate consumers, and it is foremost in protecting the public in real estate matters.

#### But What Makes a Real Estate Licensee a Professional, and What Adds Up to Professionalism?

In considering answers to the foregoing questions, I have posed those queries to real estate licensees involved in various licensed activities, consumers, family members, and colleagues. The responses I have gotten are numerous and include the notion that professionalism is:

1. A combination of appearance and attitude (or presenting oneself "professionally"), and excellent client service.
2. Understanding and following the important fiduciary duties imposed on real estate licensees (including placing the clients' interests ahead of those of the licensees). Fiduciary duties impose the highest standard of care, and real estate agents must be committed to scrupulously fulfilling those obligations. For a more complete discussion of the fiduciary duties applicable to real estate licensees, when acting as agents, please see the following *Real Estate Bulletin* article: [www.dre.ca.gov/files/pdf/reb/rebsum07.pdf](http://www.dre.ca.gov/files/pdf/reb/rebsum07.pdf).
3. Being organized, disciplined, prepared, trustworthy, honest, credible, and reliable.
4. Being civil, kind, ethical, and responsive (including communicating with clients and parties on the other side) in business dealings.
5. Delivering consistently first-rate work and results.

6. Following the lawful instructions of clients.

7. Having the education, knowledge, and experience necessary to achieve the results a client wants.

What I discovered in the answers offered by others, in reading commentaries about professionalism, and in gathering my thoughts for this message, is that professionalism is exceedingly difficult to define, but it certainly encompasses all of those factors above (including those discussed and identified in *The Realty Blue Book of California* in 1924), as well as the qualities attached to trained, experienced, and skilled people, working at the level of excellence or competence that is expected of a professional in a given arena.

While it also necessarily includes a thorough and complete understanding of—and compliance with—the standards of ethics, I want to use Steve Brown's salient ideas on professionalism (the need for and value of broker-based responsibility and efforts, and participation in training programs) as a jumping off point for the remainder of my message on what makes a real estate practitioner a professional.

#### Professionalism in Any Aspect of Licensed Real Estate Practice Requires That Practitioners Have the Current Knowledge, Skills, Abilities, and Preparation Reasonably Necessary to Represent a Client Ethically and Well.

While some can argue otherwise, my conclusion is that professionalism in performing real estate licensed services requires licensees to have up-to-date knowledge, skills, and abilities (gained through education and/or practice and experience), and thoroughness and preparation (including organization and diligence) to represent their clients well and ethically.<sup>5</sup>

**Then the preceding factors are wedded with education, training, experience, mentoring, and practice in compliance with the laws and applicable ethical standards professionalism ensues.**

A real estate licensee's education does not end with the passing of the real estate license examination.

## COMMISSIONER'S MESSAGE (CONTINUED FROM PAGE 6)

In fact, license examinations require minimum or “minimum-plus” competencies to practice. Professionalism requires *far more* in terms of education, training, actual practice, learning from other “professionals,” and germane experience, and the “more” can only be provided by those who have practiced, done the work, understand the work, and/or can educate others about the work. The “more” also includes staying current on the laws, regulations, and rules of conduct applicable to licensed real estate practice codified in the State’s Real Estate Law, and making use of any pertinent resources provided by the California Bureau of Real Estate.

I would suggest that not many patients would go to a surgeon who only passed the medical boards (the minimum standards required for licensure), and who had no practical experience or mentoring. Rather, I would posit that patients go to a surgeon because of that doctor’s experience, skills, abilities, results, and reputation.

The same analysis is surely applicable to what makes a real estate licensee a professional. It is a combination of education, training, practice, experience, mentoring, and ethical and lawful practice that helps to create a real estate professional in terms of customer care, positive outcomes, and qualitatively high client service.



These vital components of professionalism can be developed by and are found in:

1. Experiential learning (learning from one’s own experiences and the mistakes of others) and practice in the real world.
2. Careful and competent supervision of salespersons by experienced and “professional” real estate brokers.
3. Quality real estate education and study (including the study of applicable fiduciary duties and ethical standards and canons), and “professional development” programs.
4. Mentoring, where a more experienced or seasoned real estate professional shares his or her time, skills, knowledge, and wisdom with a newer or less-experienced licensee in need of upbuilding and such mentoring.
5. Practical training programs on the “nuts-and-bolts” and the “how-tos” of the real estate practice, and on managing a real estate business.

It is also important to note that real estate licensees—no matter their practice area—should always endeavor to recognize their own limitations as far as practice competencies, and refer clients where necessary, associate with practitioners with the requisite experience and abilities, or acquire the education and skills that are needed before performing real estate work.

The impartation and development of relevant and practical real estate knowledge and skills, together with ethical and high-quality practice in full compliance with the fiduciary duties imposed by law, are the core foundations of professionalism.

Making the California real estate industry more professional, putting the focus on a “professional consciousness,” and uplifting the standards of practice in this State, are objectives I share with you.

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1. The Realty Blue Book of California, page 315.
  2. *Ibid.*, page 332.
  3. California Real Estate Magazine (June/July 2014), page 20.
  4. *Ibid.*, page 20.
  5. Real estate professionals must always practice along the lines of the highest ethics possible.



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## INSIDE THIS ISSUE



- *Commissioner's Message*
- *Course Provider and Instructor Disciplined: Course Approvals Withdrawn*
- *New 'Community-Based' Outreach Program Focuses on Information Sharing, Communication, and Engagement with Licensees*
- *Mandated Posting of License Status and Disciplinary Actions*
- *Do You Need Health Insurance?*