PUBLIC POLICY POSITION PAPER



Lead Committee: Transactions and Regulatory

Information Only Committee: Professional Standards

Level of Government Committee: Legislative

October 18, 2013

TITLE: ANNUAL CONTINUING EDUCATION

THE QUESTION:

- 1. Should C.A.R. SPONSOR legislation to require mandatory continuing education to be completed in annual installments?
- 2. Should a course in ethics be required each year?

ACTION REQUIRED? Optional

POSSIBLE POSITIONS:

- 1. Sponsor legislation to require 12 hours of Continuing Education to be completed every year.
- 2. Sponsor legislation to require a Continuing Education course in ethics to be completed every year.
- 3. Both of the above
- 4. Maintain existing policy and wait to see the effect of other recommendations of the Task Force (e.g. publishing of discipline, imposing increased sanctions)
- 5. Other

DISCUSSION

As part of its recommendations in May 2013, the Task Force on Ethics and Professionalism recommended that C.A.R. sponsor legislation to require annual Continuing Education (CE) and to require that each year's course work include a class in ethics. The Board of Directors rejected the recommendation, and instead directed the Transactions and Regulatory Committee to study the proposal further.

Existing law. C.A.R. was the original sponsor of mandatory continuing education requirements, as part of an effort to professionalize real estate practice. Existing law generally requires all real estate licensees to demonstrate that they have completed 45 clock hours of continuing education classes prior to renewal of the license. The class subject areas are flexible (see Business and Professions Code 10150.5), but must include a class in Agency, Ethics, Fair Housing, Trust Fund Handling, and Risk Management. After the first renewal, the mandatory course requirements may be satisfied by completing a combined 8-hour updates course.

<u>What's the Problem?</u> Over the years, Realtors continue to be confronted by unethical or unprofessional conduct of other licensees, despite increasing requirements for education. Advocates of education as a solution suggest that licensees are just not paying attention.

A previous C.A.R. task force on broker practices urged the Real Estate Commissioner to impose an examination requirement for completing each class, reasoning that if attendees had to pass a test on a subject, they would pay more attention in class. The Commissioner adopted the requirement by regulation, but with little apparent effect on practice. Some critics have observed that the real effect of the exam requirement was to motivate instructors to "dumb down" their course content so as to avoid having to fail students.

The previous task force was particularly critical of so-called "all in one" courses which allowed a licensee to wait until the last moment before renewal and then take a marathon session of course work to satisfy the 45 hour requirement. Indeed, many reportedly do not actually do *any* studying and simply take a series of exams to verify their "correspondence" study. At the urging of C.A.R., the Commissioner again responded by regulation and prohibited licensees from testing for and receiving more than 15 hours' worth of credit in a single day. The market response was not to drive the all in one course providers out of the market, or to inspire licensees to take separate thoughtful classes - the response instead has been to cause the exams for the classes to be divided into multiday blocks, with apparently no other change in licensee behavior.

The 2013 Recommendations. C.A.R.'s 2012-2013 Task Force on Ethics and Professionalism recommended that licensees be required to complete their required continuing education in equal annual installments. If each licensee were required to take 12 hours per year, the licensee would actually complete 48 hours of total class work; an increase overall of one 3-hour class.

Arguments in favor:

- 1. Requiring the C.E. classes to be taken throughout the course of the 4-year license will be more likely to result in licensees being current on a subject when they need it (during the 4-year period) and not just at the last minute of renewal.
- 2. Requiring the C.E. classes to be taken in smaller "bites" may result in better attention and better retention of the information.
- 3. All in One classes are grossly ineffective at raising standards, and this approach will eliminate them.

Arguments against:

- 1. The logistics of tracking four times as many compliance deadlines will be unduly burdensome for all concerned BRE, employing brokers and the licensees themselves.
- 2. Creating an annual renewal requirement looks a lot like a 1-year license and may increase costs and volatility of the licensee population, and may even inspire legislation attempting to reduce the license term from four years to one.
- 3. It won't make any difference. If licensees only go to classes to meet their requirement, they will still wait to the last minute and use a non-substantive all in one class they will just do it four times as often as they do now.

What if they don't do it?

What incentives need to accompany the requirement? In discussions of the Task Force, consideration was given to financial penalties (extra fees in order to renew) or requirements for additional education to make up for what was missed or a requirement for in-person attendance of make-up classes as possible sanctions. The Task Force did not make a recommendation to the Board as to an appropriate penalty.

Without a significant sanction for non-compliance, will busy or financially struggling licensees actually comply? If a licensee fails to complete required C.E. in year one or year two of a license, should he or she be denied renewal? If a licensee fails to demonstrate completion of the annual requirement, should he or she be suspended until it is completed? If so, the rule begins to look remarkably like a one-year license, something that C.A.R. has resisted in the past.

C.A.R.'s Free C.E. Experiment.

Since January of 2013 C.A.R. through REBS has offered 12 hours of C.E. without charge to members. Interestingly, only a relatively small number (about 7400 through July, or about 10% of membership annually) have taken advantage of the free courses. Of course, the first half of the first year of a new program is not necessarily an accurate gauge of acceptance, but it does appear that even making the course work free of charge is not a sufficient incentive for voluntary compliance.

What sanction is a sufficient incentive to comply with an annual C.E. requirement?

If C.A.R. decides to sponsor legislation (see "2013 recommendations" above) requiring annual C.E., should the legislation require 12 hours each year, or simply require approximately equal installments, with the "odd" year to be at the option of the licensee?

What if the licensee takes more classes earlier than is required (for example, as part of a certification program) - should the extra hours be carried over into the following year(s)?

Ethics Every Year

The Task Force also recommended as part of its proposal that a course in ethics be included in the course work required each year.

Arguments in favor.

Members of the Task Force observed that while some licensees break the rules because they don't care and it is expedient to do so, others break the rules simply because they have forgotten or do not understand them. Indeed, markets evolve and ethical considerations change along with them, so the argument is that the ethical training ought to be refreshed every year.

Arguments against.

Not everyone thought that ignorance of ethics was a primary cause of unethical behavior or that additional annual education would cure unethical behavior.

As noted above, under existing law a course in ethics is required for the first renewal of a license, but after that can be satisfied as part of a combined summary "updates" course. C.A.R. was responsible for the rule allowing a combined course for the mandatory subjects. The change was driven by Realtor® complaints that they were frustrated with having to sit through the same course every single renewal, and that doing so took away from the incentive to take a greater number of more practice oriented courses.

If licensees are required to take the standard ethics class every year, it means that the decision has been made that the course should be repeated and should <u>amount to one quarter of the required course hours</u> for license renewal. Is such a change appropriate given C.A.R.'s earlier support for a combined course every four years?

Should C.A.R. sponsor legislation in 2014 to require annual C.E.?

If so, what requirements should be contained in the bill?

If annual C.E. is required, should it contain an annual ethics requirement?