

**OREGON BOARD OF ACCOUNTANCY
2004 SPRING WORK SESSION
MINUTES**

Sunday, May 16, 2004

Cannon Beach, Oregon

*The Board of Accountancy protects the public by regulating
the practice and performance of all services
provided by licensed accountants.*

Board Members Present

Stuart Morris, PA, *Chair*
James Gaffney, CPA, *Vice Chair*
T. Lynn Klimowicz, CPA, *Secretary-Treasurer*
Anastasia Meisner, Esq., *Public Member*
Kent Bailey, CPA
Alan Steiger, CPA

Excused

Jens Andersen, CPA

Staff Members

Carol Rives, *Administrator*
Noela Kitterman, *Investigator*
Kimberly Bennett, *Cte. Coordinator*
Carol Hanlon, *Cte. Coordinator*
Heather Shepherd, *Cte. Coordinator*

Guests Attending

Jim Aldrich, PA, OAlA Representative
Robert Boden, President, OAlA
Christine Chute, Asst. Attorney Gen
Cheryl Langley, OSCPA, Representative
Mike Lewis, CPA
Steve McConnel, CPA, OSCPA Rep.

1. CALL TO ORDER

Vice Chair Jim Gaffney called the meeting to order at 8:00 a.m.

A. Appoint Process Observer

Kent Bailey was appointed Process Observer.

B. Introduction of Guests

Guests Jim Aldrich, Robert Boden, Cheryl Langley, Mike Lewis and Steve McConnel were introduced.

2. Professional Issues

A. Independence Task Force

1. Ohio's responses to NASBA's focus questions

"Answering the SOX challenge"

The Ohio Board of Accountancy responded to a focus question issued by NASBA regarding Scope of Service. The Ohio Board believes that the concepts that were addressed in "Answering the SOX challenge" are good, however hard to define and hard to enforce. They define the concepts as "second guessing" professional CPAs and their disclosures.

2. March 2004 Exposure Draft: 4 UAA Model Rules

The draft was provided to the Board members as information only.

3. Peer Review

a. Bd of Accountancy Legislative Concept re Confidentiality of PR Reports

Gaffney reported it is currently within the Board's authority to require licensees to provide peer review reports and no legislative action is necessary; however, a concept is needed to maintain the confidentiality of the report once the Board obtains it. Chute stated that reports become public record when the Board

receives them. The Board discussed the concern that the peer review process may lose value if the reviewer is aware that a peer review report would become public. The Board discussed the importance of keeping the reports confidential. Chute stated there is a strong bias in favor of open government. She recommends the Board exercise caution in determining what information is required from licensees. There should be a balance between the public interest and confidentiality.

Chute also advised that if the reports become confidential by statute, such reports would need to be discussed in Executive Session and the Committee would have the same authority as the Board to meet in closed session.

The Board noted that public protection requires that client information not be included in the reports. OSCPAs suggested the Board develop clear guidelines on how to handle the reports under given sets of circumstances. Peer reviewers must have a reasonable idea of what the Board does with the reports to ensure that beneficial aspects of the program remain intact.

There are two sets of working papers: peer reviewer and licensee. Chute stated that since the Board has authority to request the licensee working papers, in the legislative concept it should be noted that supporting documentation remain confidential, as well as the report itself. OSCPAs explained a "letter of comments" does not list the corrective action imposed by the Peer Review Program. A list of corrective action would be beneficial to the Board. The list of corrective action is not subject to destruction and remains with the peer reviewer. When the licensee has met the requirements for corrective action, the licensee receives a final letter of acceptance. OSCPAs will provide the Board with samples of these documents. The Board did not see a benefit to requesting the peer reviewer's work papers. If the reviewer's work is not required, the Board felt this concept would not impact the peer reviewers' reports.

The Board discussed the need to appoint a task force including representation from OSCPAs, to develop guidelines for proposed administrative rules and to continue to develop the legislative concept with the goal of having it in place by January 1, ~~2005~~ 2006.

b. NASBA Memos on the SOX Challenge

The Board discussed NASBA's question: "Should any, some, or all of the regulations outlined in SOX, and implemented by the PCAOB or the SEC, be applied to non-public companies and their auditors?"

Scope of Services: The Independence Task Force is considering whether the rules are already incorporated into our rule by statute. Chute posed the question whether federal rules apply to other rules and stated the Board may only adopt standards that are in existence as of a date certain. The Oregon code of conduct is in rule only and the Board has authority to amend the code of conduct as needed without statutory amendments.

The Board believes that independence plays a very critical role in protecting the public and warrants immediate consideration.

The Board noted that universal application of numerous provisions does not make sense for small proprietors and sees the potential for a developing two-tier ~~gap in the~~ GAAP for small entities. It would be difficult to administer. The requirement that client management be financially literate to deal with these issues

makes sense, but with small government entities, it might be a challenge to find someone who has that understanding.

Partner Rotation: This is a big issue in areas where few auditors are available. In large firms auditors may have to relocate to other states to meet this requirement. The Board recognized problems for sole proprietors performing audits and the importance of having the option to consult with a partner. There doesn't seem to be much benefit to be gained from the rotation because ideas are shared in firms during the course of an audit project. Reduction in competition is a disadvantage.

Board Composition: While public members offer fresh perspective, technical expertise of professional members is critical to carry out the Board's mission.

Ethics: There were comments that various ethics requirements cause confusion to licensees and that state boards should be moving towards consistency. The Board stated that ethics training is essential at the college level and that ethics programs later in one's career serve as good reminders and that licensees may not realize they have stepped over the edge without such training. Basic training should be acquired early in one's career combined with refresher training throughout the career.

Firm Inspection: Oregon is ahead of most states in the peer review area.

Record Retention: A five-year retention period is required for work papers associated with audits and attest however the Board believes it is important to be consistent with the UAA which requires seven years.

NASBA's Uniform Accountancy Act Committee is developing revisions to the model rules and additional exposure drafts will be developed.

c. How to Treat Firms that are Subject to PCAOB Program

These are informational items that explain the structure of the program.

4. Ethics Requirement – CPE and Exam

The Board discussed requiring ethics training every two years instead of four and including the requirement for inactive licensees. NASBA has been requested to develop a national Ethics course for licensing. The CPE Committee will monitor developments and bring information forward for the Board's consideration.

5. ORS 703.405 Investigator License Requirement

The Board discussed whether it is necessary to propose an exemption for CPAs and PAs from the investigator license requirement to provide expert testimony. Chute stated that from a practical standpoint a person practicing within the scope of their profession should not need an investigator's license. Some professions are specifically exempted. The Board believed that since it is one of the ORS sections not overseen by the Board that it is more appropriate for OSCPA to lobby for this. Chute remarked that CPAs would be subject to civil penalties by the Investigator Board and the Board of Accountancy if they testify without a license, even though the courts may entertain that testimony.

6. OAR 801-030-0020(8): Business transactions with clients

The Complaints Committee made a recommendation to clarify this rule. The Board discussed revising this rule as follows:

801-030-0020(8)(a) Except for business transactions that occur in the ordinary course of business, licensees shall not enter into a business transaction with a client if the licensee and client have differing interests therein, unless the client has consented to the transaction after full disclosure of the differing interests in writing. Disclosure shall be made prior to the time the business transaction is entered.

ORS 673.320: Holding Out Provisions

The Investigator provided the Board with an historical report that lists sanctions imposed for holding out under different circumstances.

7. Federal Credit Union Audit Requirements

The Administrator reported that federal credit unions with less than \$5,000,000 in assets are considered small and have different audit requirements under Federal law. Under NCUA's provisions, these credit unions may have an audit performed by a supervisory committee. In Oregon, a licensee is required to perform this work but an audit performed under this provision does not require a CPA license. The federal rules are in conflict with Oregon provisions that restrict performance of audits to individuals who are licensed by the Board. It may be a question of preemption, federal over state law. The Board felt that this issue belongs to NCUA.

8. Outsourcing Work by Public Accountants

This issue continues to come forward. The Board believes that this is beyond the parameters of regulatory bodies. OSCPA commented that there may be some issues regarding confidentiality which would relate to ethics and supervision. Transactions would occur electronically. It might be an integrity issue.

3. Staff and Board Reports

A. Licensing

1. Individual Licensing

a. Substantial Equivalency Renewals

The Board reviewed the annual report of substantial equivalency renewal applications. The report is attached and made a permanent part of these minutes.

b. CPE Audit, 2003 Statistics

The Board reviewed the 2003 CPE audit statistics. The report is attached and made a permanent part of these minutes.

Board Discussion: *The numbers are very different than past years. Ms. Rives explained that the statistics provided in the past did not present an accurate picture because they reflected the CPE audit results after licensees were allowed to correct any deficiencies. The current statistics reflect the number of licensees who were in compliance with CPE requirements upon the first request for CPE documentation. The Board is also requested to determine the amount of the civil penalty for the individuals who responded late to the audit.*

c. Commission Reports on Licensee Renewals

The Board reviewed the statistics for the 2003 renewal period. The report is attached and made a permanent part of these minutes.

2. Firm Registrations

a. Renewals Filed

The Board discussed various circumstances causing firm "failure to respond". Some firms failed to indicate notice of termination on the renewal. Some firms responded they were no longer doing business. The potential for harm to the public increases when a non-registered firm continues to practice; however, when a firm is no longer in business, the harm is negligible. A standard civil penalty may be imposed initially for non-response; however, the Board may consider the circumstances and adjust the civil penalty at its discretion. The Board will determine appropriate civil penalties for failure to respond to the firm renewal.

b. 2004 Peer Review Audit

The Administrator reported that all Board approved peer review programs responded to the audit and confirmed that all licensees except one are registered with the appropriate programs. A follow-up letter was sent to that licensee. The Board recommended a stronger notice to licensees who do not respond to this audit, in alignment with the penalty for those who do not respond to the CPE audit. The penalty for non-response to peer review audits and the penalty for non-response to the follow-up letter will be determined. The Board has latitude to waive timelines if there are extenuating circumstances the Board wishes to consider.

B. Enforcement

1. Disciplinary Actions Closed by Calendar Year

The Board reviewed a summary of closed cases by calendar year from 1998 through April 30, 2004.

C. Administrative

1. Office Policies

a. Discrimination and Workplace Harassment S-04-030

The Board was presented with this policy for review. The policy is attached and made a permanent part of these minutes.

b. Drug-free Workplace S-04-031

The Board was presented with this policy for review. The policy is attached and made a permanent part of these minutes.

4. Legislative Concepts, 2005

A. Licensee Reporting Requirement

The Board considered the results from NASBA Quick Poll indicating that other states do not have this requirement. The Board also reviewed comments provided by OSCPA. The Board members recommend that information be provided on the Board's

web site as a FAQ. The OSCPAs offered to publish this information in their newsletter. This could be considered a professional misconduct violation and no further action is needed at this time.

B. Semi-Independence

1. ORS 182.454 – 472

The Board reviewed documents provided by the Administrator in support of semi-independence status. The OSCPA wrote a letter to the Board asking specific questions as to how the Board will handle certain requirements such as the savings in administrative costs through DAS, compensation levels for staff, reporting requirements, rule change requirements, which were addressed in a letter attached to these minutes.

Jim Gaffney and Carol Rives are currently working on this legislative concept. The Board would like to appoint a task force with representatives from OSCPA and OAIA to identify and address all objections to this concept.

5. Administrative Rule Development

A. OAR 801-001

There is one change which adds the word “permanent”. This change was on advice from the AG.

B. OAR 801-010

The Board reviewed the temporary rule (effective until July 1, 2004) regarding examination candidates voluntarily disclosing their social security numbers and forwarding the numbers to NASBA for the National Candidate Database.

The Board also discussed the requirement for supervisor licensees to hold an active license. The rules require that the supervisor licensee hold an active license for at least five years prior to supervision and during supervision. The Board will add the word “immediately” to the requirement so that it will read: held an active CPA or PA permit during the period of supervision and for at least five consecutive years immediately prior to such supervision.

C. OAR 801-020

The Board reviewed changes to Division 020 as drafted by the CPE Committee.

D. OAR 801-030

The Board discussed the retention period for working papers. The rule requires licensees to retain for five years. The Board would like to change that requirement to seven years. In addition, the language should be clarified to address attest and audit working papers.

E. OAR 801-040

Revisions to Division 040 were accepted with the exception of section 0030 which was referred back to the CPE committee for review.