

Oregon State Board of Tax Practitioners

Board Meeting Minutes

Meeting Date: July 29, 2010

Time: 9:02 a.m. – 4:23 p.m.

Location: Morrow Crane Building, Salem, Oregon

Attendees: Dorothy Hudson (Board Chair)
 Jess Gutierrez (Vice-Chair) (excused)
 Alan Twombly
 Toni Ellsworth
 Janis Salisbury
 Margaret Atchison
 Dea Williams (arrived at 9:30 a.m.)

Guests: Dale Marino
 Nancy Hubbard, OSTC
 Merry Van Atta, OAIA
 Linda Thomas
 Judith Wilkins, OATC
 Angelique Bowers, DAS
 Janet Savarro, DAS

Staff: Ron Wagner, Executive Director
 Monica J. Walker, Senior Compliance Specialist
 Jane Billings, Exam & Education Coordinator
 Marika Dwyer, Licensing Specialist

ITEM	ACTION / DISCUSSION
Twombly called the meeting to order at 9:02 a.m.	
Roll called	Board members present: Twombly, Ellsworth, Salisbury, Atchison, and Hudson.
Approval of meeting minutes	<p>Hudson allowed Board members a moment to review the previous meeting minutes.</p> <p>Motion: Twombly made a motion to accept the May 13, 2010, Board meeting minutes with the changes as proposed by the Board. Motion passed. Ayes: Ellsworth, Salisbury, Atchison, Hudson, and Twombly.</p> <p>Board meeting minutes are located on the Tax Board Web site at: http://www.oregon.gov/OBTP/meeting_minutes.shtml</p>
Administration Report	
Budget reported by Ron Wagner	<p>Wagner shared that the Board’s BAM (Budget and Management) analyst, Janet Savaro, and accountant, Angelique Bowers, would be attending in the afternoon to discuss budget issues. The biennium allotment line, \$996,527, is a new addition. Although revenues are anticipated to be greater, we can only spend what’s been allotted to us. If we go over that by any significant amount, then Wagner will have to go to the E-Board to ask for permission to increase our allotment. \$249,132 is our target recommended ending balance which represents six months of operating expenses. Wagner has an anticipated ending balance of \$345,000.</p>
Outreach Meeting	<p>This year’s outreach Board meeting will take place September 23, 2010, in Salem at the Oregon Department of Transportation Human Resources Center. CE will be offered. Board members discussed how lunchtime topics will be covered. Salisbury suggested that the newsletter asked for licensee input.</p>

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Licensee Article for the Newsletter	A licensee gave Wagner an article for inclusion in the Tax Board Bulletin newsletter. He will run it by the Board members and make any necessary edits. Wagner invited licensees to submit articles for this new section of the newsletter.
Limited Duration Position	In talking with the BAM analyst about filling some portion of a fifth position, creating a limited duration position was recommended. The benefit of the limited duration position is that it allows us to see how this position fits in with what we do, test out amount of time this position needs to put in, and then evaluate whether we want to change it to a permanent position at the end of the biennium.
Annual Renewal Process Considered	Wagner received an e-mail from Phyllis Turnbaugh of Medford. She wanted the Board to consider changing from an annual renewal process to a biennial renewal, similar to what the Board of Accountancy does. To renew half the licensees during each peak time will reduce the workload. Ellsworth shared that the Construction Contractor's Board has a biennial renewal and that they pay in advance. This might impact cash flow. Remembering to renew every year is probably easier than keeping track of every two or three years. This topic can be included for input from the licensees in the next newsletter.
Exam and Education Report	
Reported by Jane Billings	<p>Billings provided the Board members three months of exam statistics. The pass rate for the consultant exam is 29%, the consultant state-only is 55%, and the preparer exam is 53%.</p> <p>The preparer exam Item Writing Committee met June 9-10, 2010. Billings felt that it went very well and thanked the twenty volunteers.</p> <p>The consultant exam test takers met on June 16, 2010 and each took a version of the exam based on the 2009 tax law. Test takers shared their concerns with Barb Jenkins, Board exam consultant, after completing the test. The passing scores were good. There were four questions that required additional review. The Exam & Education Committee felt they were all valid questions, and they will remain on the exam. It was suggested that Forms 5695 and 8853 Instructions be added to the list of optional reference materials for consultants as they review for the exam. The consultant exams are printed and ready for August release.</p> <p>As Gutierrez suggested in a prior Board meeting, this year's instructor pass rates were compared with the previous year's for Board members to review.</p> <p>Billings acknowledged Item Writing Committee volunteers Kim West, Nutan Arora, Becki Vanderkarr, Henrietta Browning, and Janet Sugrue for volunteering to meet with the Board to review Item Writing Committee comments during their exam work sessions. The Item Writing Committee had suggested adding the Oregon Military publication to the source documents, which was denied by the Board.</p>

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Continuing Education Evaluations

Sponsor	Course Title	Hours Requested	Hours Approved	Comments
CCH	FASB Accounting Standards	2	0	Not appropriate for our licensees
Hera's Income Tax School	Retirement Plans for Small Business	3	0	Subject matter not within Board parameters.
Tax Materials, Inc.	New Tax Law Review	4	2	Class seems well done, however, not enough material for 1 hour towards each chapter
Tax Materials, Inc.	Clients with Children Tax Review	8	4	Class seems well done, however, not enough material. Some chapters only 2 pages long.

CE Evaluations

Motion: Twombly made a motion to accept the continuing education as edited. Motion passed. Ayes: Atchison, Hudson, Williams, Salisbury, Ellsworth, and Twombly.

Motion: Twombly made a motion to accept the two additional reference resources to the consultants' list of optional review materials. Motion passed. Ayes: Salisbury, Ellsworth, Atchison, Hudson, Williams, and Twombly.

Board Meeting Break 10:09 a.m. - 10:21 a.m.

Licensing Report

Statistics reported by Marika Dwyer

The comparison report of June 2009 and June 2010 was included in the Board member binders. There was a substantial increase in the number of preparers. Many are exercising the option to be inactive. We are keeping the lapsed and ineligible to a minimum. There have been less branch and business registrations, but overall the numbers are pretty stable.

Executive Session Review of Case Files

To discuss information exempt from public disclosure under ORS 673.730(4). Pursuant to 192.660(2)(f). This Executive Session is closed to members of the public.

Executive Session 10.25 a.m. - 12:02 p.m.

Lunch 12:02 p.m.

Hudson reconvened the meeting at 12:38 p.m.

Compliance Report

Reported by Monica J. Walker

Eight cases were reported on during Executive Session. Eight are newly opened and five are pending investigation. Two were received in office, two were Craig's List postings, and one was an internal complaint. Five are Notices of Intent. Two cases will be forwarded to the Oregon Department of Revenue for collections. Five cases were mediated. Six cases need Board action and a vote today.

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Case Update: Carol Jones – the Board issued several Notices of Intent and Final Orders, as well as a Cease and Desist, in which the Board issued a press release; and Jones continued to operate out of Lowell, Oregon. She was incarcerated for a period of five weeks. The outcome was that she was convicted of one count of Oregon personal income tax evasion (a class C-Felony), three counts of preparing a tax return without a license, and an unclassified misdemeanor, and four counts of supplying false or fraudulent tax information (a class C-Felony). She was sentenced to five years of supervised probation, and she was required to pay restitution in an amount yet to be determined. She is prohibited from providing legal, tax, or financial advice in Oregon. A federal probation violation is now being looked at for Jones as well.

Other Business: A couple of violations need to be added to the civil penalty matrix.

1) “Engaging in conduct which evidences a lack of ability or fitness to perform professional functions” has occurred twice previously where there were felony convictions discovered, and has traditionally been fined \$1000 per violation. Walker asked Board members to decide which category this should be placed in the matrix, and \$100 to \$5,000 was agreed upon.

2) “Failing to comply with continuing education requirements.” In the past the Board charged a fine of \$300. The Board agreed to \$100 as a minimum and \$5,000 as a maximum.

Walker highlighted the Department of Revenue (DOR) Tax Practitioner meetings. May was scheduled for the DOR tour. Concern was expressed over the dependence letter that was sent out, so there was a quick Q and A session regarding that. The June 9, 2010, IRS Webinar on national licensure was also discussed. Walker provided field visit statistics at the July meeting. With regards to confidentiality and releasing records, there is some confusion in the field about what requests are authentic because they are copied or not signed. If the practitioner can verify authenticity, then the records must be released by rule. The Board asked Walker to address this issue at the Licensee Luncheon. Wagner cautioned that we need to be careful not to give legal advice. The August meeting will cover employee contractor issues, iWire, S-Corp signatures, processing center update, depreciation, and DOR will discuss its operating budget, and whether it’s subject to the nine percent cut.

Wagner and Walker attended the IRS Webinar on national licensure in June. It was noted that national licensure isn’t for the Board to discuss because it’s the IRS’s program. Walker provided a presentation on continuing education at the OATC convention on June 25, 2010. There were a lot of questions. To increase the Board’s awareness, there was a suggestion to have businesses and branches post a sign noting that “OBTP is here to help you.” While going over the rule review, Walker said there was confusion over Resident/Designated Consultant and return signing requirements. We are asking for the signature and license number of the person who primarily prepared the return, rather than just the “responsible party.” Licensees asked that the Rules Advisory Committee take a look at this in September to possibly clarify the rule.

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	<p>Walker shared her involvement in the Leadership Oregon Program for two days each month. May covered forming community partnerships, where she helped volunteer at Silver Creek Falls and also visited Coffee Creek Correctional Facility. June covered leadership challenges and creativity, where she went to Tillicum Challenge Course for the day, and worked with and resolved issues as a team. July covered public service leadership and social networks, where she job-shadowed the president of SAIF Corporation and was able to attend their leadership management conference.</p>
Notices of Intent	
<p>Quentin Stanhope Lincoln City, OR</p>	<p>Motion: Salisbury moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Quentin G. Stanhope of Lincoln City, Oregon for: One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(a & b) for failing to register his tax preparation business at \$100; and thirteen (13) violations of ORS 673.615(1) for preparing, advising or assisting in the preparation of personal income tax returns for another in Oregon for valuable consideration without being licensed or exempt from licensure at \$150 per violation.</p> <p>Motion passed. Ayes: Atchison, Hudson, Salisbury, Williams, and Twombly. Nays: Ellsworth.</p>
<p>Aracely Hernandez Hillsboro, OR</p>	<p>Motion: Salisbury moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Aracely Hernandez of Hillsboro, Oregon for: One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(a & b) for failing to register her tax preparation business at \$100; and two-hundred-eighty-three (283) violations of ORS 673.615(1) for preparing, advising or assisting in the preparation of personal income tax returns for another in Oregon for valuable consideration without being licensed or exempt from licensure at \$250 per violation.</p> <p>Motion passed. Ayes: Twombly, Hudson, Atchison, Ellsworth, Williams, and Salisbury.</p>
<p>Maria Cazares Canby, OR</p>	<p>Motion: Salisbury moved that the Board issue a Notice of Intent to Revoke the preparer license of and Impose Discipline and Right to Hearing to Maria E. Cazares (license number 28061-P) of Canby, Oregon for: One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(a & b) for failing to register her tax preparation business at \$100; for all violations of ORS 673.615(2) found against Maria E. Cazares for preparing, advising or assisting in the preparation of personal income tax returns for another in Oregon for valuable consideration without the supervision of a licensed tax consultant, or a person described in ORS 673.610(2) or (4) at \$1000 per violation found; and for all violations of ORS 673.700(7) and OAR 800-010-0040(2) found against Maria E. Cazares for failing to include her license number on the personal income tax returns she prepared, advised and assisted on from March 9, 2006, through the present at \$500 per violation found.</p> <p>Motion passed. Ayes: Ellsworth, Atchison, Twombly, Hudson, Williams, and Salisbury.</p>
<p>Job Lopez Woodburn, OR</p>	<p>Motion: Salisbury moved that the Board issue a Notice of Intent to Cease and Desist, pending approval of Assistant Attorney General, and Impose Discipline and Right to</p>

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	<p>Hearing to Job Lopez of Woodburn, Oregon for: One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(a & b) for failing to register his tax preparation business at \$100; and for all violations of ORS 673.615(1) found against Job Lopez for preparing, advising or assisting in the preparation of personal income tax returns for another in Oregon for valuable consideration without being licensed or exempt from licensure at \$1000 per violation found.</p> <p>Motion passed. Ayes: Twombly, Williams, Ellsworth, Atchison, Hudson, and Salisbury.</p>
<p>Delia Wallin-Gill Woodburn, OR</p>	<p>Motion: Salisbury moved that the Board issue a Notice of Intent to Cease and Desist, pending approval of Assistant Attorney General, and Impose Discipline and Right to Hearing to Delia M. Wallin-Gill of Woodburn, Oregon for: One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(a & b) for failing to register his tax preparation business at \$100; and for all violations of ORS 673.615(1) found against Delia M. Wallin-Gill for preparing, advising or assisting in the preparation of personal income tax returns for another in Oregon for valuable consideration without being licensed or exempt from licensure at \$1000 per violation found.</p> <p>Motion passed. Ayes: Ellsworth, Williams, Hudson, Twombly, Atchison, and Salisbury.</p>
<p>Settlement Agreements</p>	
<p>Grant McCaslin Gresham, OR</p>	<p>Motion: Salisbury moved that the Board enter into a Settlement Agreement and Stipulated Final Order with Grant P. McCaslin of Gresham, Oregon, and assess civil penalties in the amount of \$5,365.90 for: One-hundred-five (105) violations of ORS 673.615(1), preparing, advising, or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure; one-hundred-five (105) violations of ORS 673.705(2) for representing as licensed when not; one (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(a & b) for failing to register his tax preparation business; and one (1) violation of ORS 673.700(7) and OAR 800-010-0042 for failing to respond in writing to communications from the Board within 15 business days.</p> <p>Motion passed. Ayes: Twombly, Hudson, Atchison, Ellsworth, Williams, and Salisbury.</p>
<p>Other Business</p>	
<p>Civil Penalty Matrix Additions</p>	<p>Motion: Salisbury moved that the Board add ORS 673.700(7) / OAR 800-010-0017(1) – engaging in conduct which evidences a lack of ability or fitness to perform professional functions to the civil penalty matrix with a minimum civil penalty amount of \$100 and a maximum civil penalty amount of \$5000.</p> <p>Motion passed. Ayes: Atchison, Twombly, Williams Hudson, Ellsworth, and Salisbury.</p> <p>Motion: Salisbury moved that the Board add ORS 673.655 / OAR 800-015-0015 – failing to comply with continuing education requirements to the civil penalty matrix with a minimum civil penalty amount of \$100 and a maximum civil penalty amount</p>

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	<p>of \$5000.</p> <p>Motion passed. Ayes: Ellsworth, Atchison, Twombly, Williams, Hudson, and Salisbury.</p>
Administration Report (Continued)	
<p>Ron Wagner Janet Savaro Angelique Bowers</p>	<p>Wagner introduced the Board’s BAM analyst, Janet Savarro, and accountant, Angelique Bowers.</p> <p>There was overspending in personal services. They take a snapshot of expenses and use it as a baseline for the new budget for the next biennium. The positions were budgeted for salary level two. The Board agreed on \$40,000 for a policy option package to increase consumer awareness.</p>
<p>Board Meeting Break 1:55 p.m. - 2:10 p.m.</p>	
<p>Exam & Education Committee Meeting Reported by Janis Salisbury</p>	<p>Salisbury explained that the purpose of the Committee meeting was to discuss how the Board perceives that it will intertwine with national licensing. The general consensus is that the Board will continue as is.</p> <ul style="list-style-type: none"> • The Basic 80-Hour Course will continue unchanged. • The 30-hour CE annual requirement will continue unchanged. If the national requirement is 15 hours, licensees may use the same 15 as part of their 30-hour CE. • Online CE hour limitations would be too hard to monitor, and will be unchanged. • The Board will no longer review online correspondence courses. The Committee discussed amending the rule regarding this and advertising. • No CE required in the initial year of licensure will continue unchanged. • The CE audit percentage should be increased. • Recommending the hours required to sit for the consultant exam be changed from 780 to 1100 in two of last five years. • The Board can’t prevent people from taking the exam just because they do not have a PTIN yet. • Having taken the federal test as a prerequisite to apply for licensure is not required. • The Board will require a PTIN after January 1, 2011, and this will be noted somewhere on the renewal forms. • The fee for initial preparer license will either be eliminated or reduced. Other fees will remain unchanged. <p>Concern was expressed over the changes affecting the rules. Wagner plans on examining and formalizing the administrative rule process and would like to involve the Board and staff more before the Rules Advisory Committee meets.</p> <p>Motion: Salisbury moved to accept the June 23, 2010, Exam & Education Committee meeting minutes as reviewed. Motion passed. Ayes: Williams, Ellsworth, Atchison, Salisbury, Hudson, and Twombly.</p>

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	Exam & Education Committee meeting minutes are located on the Tax Board Web site at: http://www.oregon.gov/OBTP/meeting_minutes.shtml
Administration Committee Meeting Reported by Ron Wagner	<p>Wagner shared the highlights of the meeting with the Board. Items discussed were:</p> <ul style="list-style-type: none"> • Allocate four to six percent of the revenues for public awareness. • Require all licensees to include license numbers in advertising or on their business cards. • Require business cards to say “this person is licensed by the Oregon Board of Tax Practitioners” or something similar. Suggestions to include Board’s mission statement and Web site. • Ask for logo submissions in newsletter. • Redesign the current business registration to say this office is licensed by the Oregon Board of Tax Practitioners. • Revise the Board’s mission statement. • Change the Board’s URL to www.oregon.gov/OBTP. • Expand jurisdiction of the Board, but hold off on legislative concept until we see how national licensing affects the Board. • Rather than create a Communication Committee, include these duties in the Administration Committee. <p>Motion: Twombly moved to accept the June 24, 2010, Administration Committee meeting minutes as reviewed. Motion passed. Ayes: Salisbury, Ellsworth, Williams, Hudson, Atchison, and Twombly.</p> <p>Administration Committee meeting minutes are located on the Tax Board Web site at: http://www.oregon.gov/OBTP/meeting_minutes.shtml</p>
Executive Session <small>To discuss information exempt from public disclosure under ORS 673.730(3). Pursuant to 192.660(2)(f). This Executive Session is closed to members of the public.</small>	
Executive Session 3:15 p.m. - 4:23 p.m.	
Adjournment	Hudson adjourned the Board meeting at 4:23 p.m.

Next meeting:
 September 23, 2010
 ODOT HR Center, Salem, Oregon