

Oregon State Board of Tax Practitioners

Board Meeting Minutes

Date: September 20, 2012

Time: 9:12 a.m. – 3:45 p.m.

Location: Riverhouse, Bend, Oregon

Attendees: Janis Salisbury (Board Chair)
Jess Gutierrez (Vice-Chair)

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

Alan Twombly
Dorothy Hudson
Dea Williams
Toni Ellsworth
Joe Lovato

Guests: Linda Thomas
Joyce Walter
Shirley Warner
Mary Fletcher
Susan Meether
Peggy Hoxsey
Jack Goldberg
Judith Wilkins
Nancy Hubbard
Diana Ackerman
Trina Shrum
Justine Easlon

Jannette Gardner
Loretta Bike
Michael Addington
Dorothy Burgess
Joyce Davis
Betty Forester
Susan Parks
Donna Boyd
Dawn Clasby
Jennifer Johnstone
Joyce Lavoie

Linda Brooks
Stan Turel
Sherry Moore
Wendy Jones
Roy Lantz
Michael Hudson
Collette Zinniker
Justin Mohan
Donna Mohan
Alice McCullough
Nancy Cox

ITEM		ACTION / DISCUSSION	
Salisbury called the meeting to order at 9:12 a.m.			
Roll called	Board members present: Hudson, Twombly, Ellsworth, Gutierrez, Williams, Lovato, and Salisbury.		
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 9:13 a.m. – 10:40 a.m.			
Salisbury reconvened the Board meeting at 10:40 a.m.			
Compliance Report			
Reported by Monica J. Walker	Complaints reported from January 1, 2012, through September 18, 2012. General statistics:		
	117	Total cases	
	6	Reported during Executive Session	
	6	Cases or waivers needing Board action/vote	
	20	Open investigations	

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	<p>3 Pending Investigations 8 Mediated 86 Closed</p> <p><i>Out of these totals:</i></p> <ul style="list-style-type: none"> • <i>Complaints which resulted in Board action taken: 19</i> (Notice of Intent, Final Order, Settlement Agreement – NOTE: Count does not include open investigations that the Board has <i>authorized</i> action on if evidence is found) • <i>Complaints which the Board has given an authorization to take action if evidence is found: 13</i> (i.e., <i>authorization to issue a Notice of Intent</i>) • <i>Complaints in which licensees were educated into compliance: 3</i> (Posting in public view, new advertising rules) • <i>DC Waivers needing Board action/vote: 2</i> (Regular Session) – Will discuss under waivers on agenda <p>General counts/information on complaints:</p> <p>54 Unlicensed/unregistered activity 21 Advertising 17 Other entities 16 Competency in services 12 Return of records 11 DC/RC/supervision requirements 10 Fraudulent activity 3 Failure to notify of changes to information 2 CE audit requirements 2 Failure to file a return 1 Signature requirements 1 Confidentiality 0 Posting of fee schedules</p> <p><i>Settlement Agreement Update/Status</i> Signed/On Payment Plan w/Board: Albert Bentley Daria Nelson Fausta O. Garcia Jamasa Sattler Pamela Miles Steve Townsend (New) William Baumeister</p> <p>Paid in Full – Waiting for Signature: John F. Robideau</p>
Notices of Intent	
Edward Goffreda	Motion: Gutierrez moved that the Board issue a Notice of Intent to Impose

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<p>Grants Pass, OR</p>	<p>Discipline and Right To Hearing to Edward Goffreda of Grants Pass, Oregon for:</p> <p>Three hundred eleven (311) violations of ORS 673.615(1), for preparing, advising, or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure at \$250 per violation;</p> <p>Two (2) violations of ORS 673.700(7) and OAR 800-010-0050, for advertising in the form of printed, broadcast or electronic material that makes known professional tax services at \$50 per violation; and</p> <p>Eleven (11) violations of ORS 673.643(1) and OAR 800-025-0020(1), for failing to register a tax preparation business at \$100 per violation.</p> <p>Motion passed. Ayes: Ellsworth, Lovato, Salisbury, Williams, Hudson, Gutierrez, and Twombly.</p>
<p>Maria Alvarez Lafayette, OR</p>	<p>Motion: Gutierrez moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Maria A. Alvarez of Lafayette, Oregon for:</p> <p>One hundred ninety one (191) violations of ORS 673.615(1), for preparing, advising, or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure at \$250 per violation; and</p> <p>Four (4) violations of ORS 673.643(1) and OAR 800-025-0020(1), for failing to register a tax preparation business at \$100 per violation.</p> <p>Motion passed. Ayes: Williams, Twombly, Hudson, Lovato, Salisbury, Ellsworth, and Gutierrez.</p>
<p>Regina Warren Portland, OR</p>	<p>Motion: Gutierrez moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing to Regina Rae Warren of Portland, Oregon for:</p> <p>All violations of ORS 673.615(1), found for preparing, advising, or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure at \$250 per violation;</p> <p>Two (2) violations of ORS 673.700(7) and OAR 800-010-0050, for advertising in the form of printed, broadcast or electronic material that makes known professional tax services, and for failing to include the name of a firm that has complied with ORS 673.643 at \$50 per violation; and</p> <p>All violations of ORS 673.643(1) and OAR 800-025-0020(1), found for failing to register a tax preparation business at \$100 per violation.</p> <p>Motion passed. Ayes: Williams, Twombly, Ellsworth, Hudson, Lovato, Gutierrez, and Salisbury.</p>
<p>Shelley Martin Lake Oswego, OR</p>	<p>Motion: Gutierrez moved that the Board amend their May 10, 2012, vote to issue a Notice of Intent to Impose Discipline and Right To Hearing to Shelley C. Martin of Lake Oswego, Oregon to:</p>

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	<p>Retract the Board’s intent to revoke the preparer license of Shelley C. Martin (License #71740-P) for violating the provisions of Oregon Revised Statute 673.655 and Oregon Administrative Rule 800-015-0015;</p> <p>Retract the Board’s intent to assess one (1) violation of ORS 673.705(1) for obtaining her tax preparer license by fraudulent means when she attested to having completed 30 hours of continuing education and failed to provide proof of completion at \$500;</p> <p>Keep vote to assess one (1) violation of ORS 673.655 and OAR 800-015-0015 for failing to comply with continuing education audit requirements at \$300; and</p> <p>Keep vote to assess four (4) violations of ORS 673.705(7) and OAR 800-010-0042 for failing to respond to the Board’s notifications of audit at \$100 per violation.</p> <p>Motion passed. Ayes: Ellsworth, Lovato, Twombly, Salisbury, Williams, Gutierrez and Hudson.</p>
<p>Todd Saier San Diego, CA</p>	<p>Motion: Gutierrez moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Todd Saier of San Diego, California for:</p> <p>Three (3) violations of ORS 673.700(7) and OAR 800-010-0050 for advertising in the form of printed, broadcast or electronic material that makes known professional tax services and for failing to include the name of a firm that has complied with ORS 673.643 at \$150; and</p> <p>One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1), for failing to register a tax preparation business at \$250.</p> <p>Motion passed. Ayes: Lovato, Hudson, Twombly, Ellsworth, Williams, Gutierrez , and Salisbury.</p>
<p>Tirsa Fong-Guien AKA Tirsa Villanueva Medford, OR</p>	<p><i>Prior to making this next motion, Gutierrez duly noted for the record that the violations which will be voted on occurred after the Board’s issuance of a Cease and Desist Order, dated March 15, 2012, to the named individual.</i></p> <p>Motion: Gutierrez moved that the Board add the following violation to their March 15, 2012, vote to issue a Notice of Intent to Impose Discipline and Right To Hearing to Tirsa G. Fong-Guien AKA Tirsa G. Villanueva (license number 28194-P) of Medford, Oregon:</p> <p>Three (3) violations of ORS 673.700(7) and OAR 800-010-0050 for advertising in the form of printed, broadcast or electronic material that makes known professional tax services at \$2000 per violation.</p> <p>Motion passed. Ayes: Twombly, Ellsworth, Gutierrez, Salisbury, Hudson, Lovato, and Williams.</p>
<p>Other Business</p>	
<p>Signature Requirements</p>	<p>Walker provided Board members with materials to review regarding signature requirements. Previously the Board has said that the person who primarily prepared the return should sign the return. The question is whether our rules are in conflict</p>

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	with the IRS signature regulations. Under Board jurisdiction tax practitioners who are required to sign the return will have a PTIN and take the appropriate exam as well. Salisbury was under the impression that the IRS ruling will be reviewed. The Board agreed that rules were not in conflict.
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Approval of meeting minutes	<p>Motion: Ellsworth made a motion to accept the July 12, 2012, Board meeting minutes as prepared and presented. Motion passed. Ayes: Twombly, Williams, Ellsworth, Gutierrez, Lovato, Hudson, and Salisbury.</p> <p>Board meeting minutes are located on the Tax Board Web site at: http://www.oregon.gov/OBTP/pages/meeting_minutes.aspx</p>
Public Comment	
Susan Parks	Parks agrees with every person who significantly prepares the return should actually sign the return.
Administration Report	
Budget reported by Ron Wagner	The projected revenue for the biennium July 1, 2011 through July 30, 2012 is \$578,000. The actual revenue through July 2011 was \$601,566. Our actual revenue is \$23,566 more than the projected revenue. The projected expenses for the biennium through July 2012 were \$588,000. The actual expenses through July 2011 are \$556,403. Our actual expenses are \$31,597 less than the projected expenses.
Board CE Presentation 11:08 a.m.-12:05 p.m.	
Lunch 12:05 p.m. - Licensee Luncheon	
Salisbury reconvened the Board meeting at 1:10 p.m.	
Administration Report (continued)	
Agency Request Budget	Wagner submitted the Agency Request Budget for the 2013-2015 biennium.
Legislation	One bill was pre-session filed to expand the wording that would expand jurisdiction to include employees of attorneys.
Online Renewal	NIC USA migrated our Web content to SharePoint and will be the avenue used to develop our online renewal system. So far there have been many challenging issues with the company. Wagner had hoped to get the exam applications online right away since the bulk of the applications come at one time, but NIC continues to be busy with issues from taking over the state Web content. Wagner will continue to ask, and will provide an update at the next Board meeting.
Salisbury Web CE Concern	Salisbury asked that the wording under the licensing information page on the Web state “they are acceptable to Oregon licensees because they have Board approval,” rather than “acceptable because they have Board approval.”
Advertising	Wagner referenced the Advertising Q & A document and the large outdoor signage in particular. The Board members discussed the intent of the rule and the difference between road signage and building signage. It was established that the Board would

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	<p>not supersede a city or county or landlord regarding this.</p> <p>Another licensee asked about including both the LTC number and the business registration number for personal and business names on letterhead. Wagner shared that only one or the other was required.</p> <p>Previously the Board issued a new business registration only when there was a change in owner or a change in the name of the business. Because the applications say licensees must submit a “new” business registration if they are late and go into lapsed status, there was a time that a whole new business registration number was issued in these cases. Now with the advertising rules, the effort will be made to retain the same business registration number.</p> <p>Salisbury felt the Board should speak to the issue of when the corporation owns the business and shareholders change. Wagner will discuss with Gabliks on ways to simplify this.</p>
Volunteer Tax Preparers	<p>Ensuring the quality review process is consistently followed remains a problem for the volunteer programs. The problem is individuals are making the choice to go outside of the guidelines. Wagner would like to involve the associations in the process and see what suggestions they have to share. He can see ways the current licensees can be part of the solution. The programs are very open to improving the services provided by the volunteers. Wagner will continue to give updates on this and send the link to the Board members.</p>
Public Comment	
Dianna Ackerman	<p>Ackerman sited that New York requires all people preparing returns to register with the state. She suggested that anyone doing returns in Oregon be required to be registered and pay a fee (anywhere from free to \$100).</p>
Michael Addington	<p>Addington wanted clarification on the large signage issue; when the business name is actually the person’s name (licensee) is there an exception to the rule?</p>
Licensing Report	
Reported by Ron Wagner	<p>Dwyer is keeping up with the incoming renewals. Wagner believes that the preparer renewals are coming in rather slowly. The biggest change is there are more lapsed preparers this year.</p>
Exam and Education Report	
Reported by Jane Billings	<p>The Board members were supplied with statistics reflecting the pass rates for the months of July and August, which also included pass percentage rates for the preparer, consultant, and consultant-state-only exams from 2009 to August 2012. Preparer pass rates are falling. There was discussion about ways to help instructors and online sponsors improve this. The Exam & Education Committee will schedule a meeting prior to the November Board meeting to discuss ideas. They will report their findings at the November Board meeting.</p> <p>Billings, Wagner and Dwyer met with H & R Block Manager, Randy Shimek, on July 17th to brain storm about some issues and challenges faced this past exam season</p>

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year. It was a very successful and productive meeting. A few changes were discussed that should make the process for exam applicants run more efficiently in the future.

Applicants will include their personal information along with their business addresses allowing easier access in contacting them. A fillable exam application will be made available on the Board's Web site.

Preparer test taker volunteers came to the Board office on August 10, 2012 to take the latest versions of the preparer exam. Each volunteer took a version of the exam and met with the exam consultant, Barb Jenkins, to review their comments and exam results. The volunteers all did an incredible job, each claiming to have enjoyed the experience, and each passed with some pretty impressive scores – all in the 80s and 90s. The new version of the preparer exam was released on September 1st.

Thank you to these volunteers: Patti Anderson, Kirkwood Donovan, Sandra Hanks, Arthur Montgomery, and Anita Robinson.

The new edition of the General Information Booklet has been updated and is now available on the Board's Web site.

Proctor site inter-agency agreements have been finalized with exam proctor sites around the state. The manager of the proctor site at EOU (La Grande) retired, and the Board almost lost this one, but the testing center has agreed to continue to be a proctor site. Proctor site visits conducted on Friday, September 14, 2012, included: PCC-SE Center, Heald, Clackamas-Oregon City, and Clackamas-Wilsonville.

Billings assured PCC that the process for scheduling exams this year would follow the normal procedure as they have been in the past. Last year they made special accommodations with an 80-hour basic tax course sponsor for special exam sittings and processed 170 exams in 2 days. They cannot make those same accommodations this year. In 2010 they received a \$379 million dollar bond that will allow them to expand their campus. Construction will begin in 2013, and the completion date is set for 2014. Recently they have added video cameras to a number of their proctoring rooms and have a computerized login system now, so in the future their invoices can be sent to us via e-mail. In the Portland area PCC is the most utilized proctor site. During the weeks of December 21st and January 7th, they will be able to accommodate a large number of examinees. Individuals having to retake the exam should have the opportunity to do so at PCC before the tax season really gets under way.

Fortunately the timing of site visits was perfect. Classes had not yet started, so it was easy to talk with representatives from each school's proctor site. All of the proctor sites have been proctoring our exams for a number of years, and all of them are extremely competent and knowledgeable about what we require.

A couple of the sites visited would like the Board to seriously consider reimbursement of the cost of postage for return of exams. Even though they have signed contracts for the current year, currently the maximum rate for proctoring an exam is \$40 per exam (PCC charges a minimum of \$50 for every exam over 2 hours long, except for our exam). Billings is uncertain where and when the \$40 maximum

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fee allowed per inter-agency agreement came from, but with inflation, postage fee increases, staffing, etc., it may be time to reconsider the cost if we wish to continue to retain these proctor sites in the future.

Currently sites such as Sylvan Learning Centers and Prometrics charge fees for a 5-hour exam ranging from \$100 to \$200, and the 1½ hour exam \$40 to \$50. Current postage rate for an exam packet sent first class mail averages \$3.14.

Billings asked the Board to consider allowing a set fee proctor sites could be reimbursed for return postage on each exam they proctor, or raising the allowable proctor site fee per exam sitting.

Billings asked the Board members if they would approve an increase in the proctor fee rate and if they would allow sites to bill for postage. The Board members agreed to increase the \$40 minimum fee each proctor site could charge per exam sitting to \$60. This should allow for the increase in postal rates.

Sponsors for the 80-hour basic tax course have been submitted, reviewed and approved. The majority of courses have begun or will begin soon. Billings is continuing to work with and educate sponsors on the process, specifically the requirements of the Department of Education (DOE). Billings encourages sponsors to contact the DOE to begin the process early, allowing for plenty of time to be registered as vocational schools. There were a couple of schools that had to reconsider offering classes for this season because there wasn't enough time to get DOE approval. Two Liberty Tax franchises were given provisional approval through the DOE, allowing them to start their scheduled classes on time.

To ensure that each and every student get as much information as possible to help them through the exam process, instructor packets were sent to each instructor and every sponsor via e-mail this year with PDF files of and links to the General Information Booklet, proctor sites, and specific forms.

Billings reported that consultant CE audit letters were mailed out on July 31st to 209 consultants. Licensees had one month to respond. On September 6th fourteen second notices were mailed out to those individuals that had not responded. Licensees that received second notices have until October 6th to respond. Eight of the 14 have already complied. An additional five more first notice letters were mailed out to licensees whose names had been selected but had not renewed their licenses at the time the first notification was mailed. Only minor issues have been noticed with the majority of courses reviewed so far – using half hour increments, dates that did not fall within the acceptable time frame, questions about the actual topic of courses taken, details, course outlines, etc.

A couple of CE sponsors have been contacted notifying them that the certificates of completion they are providing are incomplete according to the requirements outlined in the OARs.

Plans are to send out the notification letters in mid-October for the 178 preparers that have been randomly selected for the 2012 CE audit.

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	<p>The Board Administered Exam is scheduled for Saturday, December 8, 2012. Accommodations have been made to host the exam at Chemeketa Community College, Winema Place. Billings reminded the Board members to log this date onto their calendars. She will contact consultant licensees that may be willing to volunteer this year.</p> <p>Wagner reminded the Board members that the next Instructor Workshop will be held in August 2013. Board members may want to start thinking about ideas for topics, format, and possible location. This will be discussed further at a later date.</p>
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Board Meeting Break 2:44 p.m. to 2:48 p.m.

Administrative Rules

<p>Reported by Monica J. Walker</p>	<p>The Rules Advisory Committee meeting took place on September 13, 2012. One group rotated note taking between divisions, which Walker felt was a great idea. A report was provided to the Board members in their binders. The Board will be reviewing the proposed changes and recommendations at the November Board meeting. Here is a brief summary of recommendations and proposed changes.</p> <p>Housekeeping Gabliks, AAG request for change to “Hearing Request and Answers/Consequences for failure to answer” Division 1. Boilerplate language change per new legislatively approved law(s). Changes protect the violator and increases burden of proof for Board’s: 1) No longer requires an admission or denial of each factual matter alleged in the notice, and 2) Takes out: “Factual matter alleged in notice and NOT denied in answer will be presumed admitted.”</p> <p>Minor Changes There were changes to wording; adding the word “standard” to minimum fees charged, i.e., minimum “standard” fees charged (basic fee schedule); or adding “for valuable consideration” (accountability with regards to LTP supervision requirements); changing “people” reference to “licensee” regarding in-company CE; adding PTIN to CE and 80-hour basic course certificate requirements, etc.</p> <p>Complex Recommendations (examples) Add a requirement of 350 hours in Oregon tax preparation for instructors of basic courses; eliminating “presentation to a minimum of 10 people” from in-company instruction; add a work experience requirement for EAs to sit for the “State-Only” portion of the consultant examination (360 hours in 2 of the last 5 years); license renewals on a calendar basis rather than fixed; review fee structure, taking into consideration new IRS fees, as well as others; allow LTC to be Designated Consultant for only two (2) locations rather than just one (1) (suggestion: business they own and a business they do not have an ownership interest in); increase supervision requirements for preparers, i.e., from 3 years to 2 years for “look back” period, or from 240 hours to 360 hours.</p>
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Waiver Requests

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Jeanie Pitner Battleground, WA	<p>Motion: Hudson moved to accept the designated consultant waiver request for Jeanie M. Pitner of Battleground, Washington, through May 31, 2013, per the Business Practice Committee’s temporary approval issued on September 11, 2012.</p> <p>Motion passed. Ayes: Gutierrez, Salisbury, Hudson, Twombly, Williams, Ellsworth, and Lovato.</p>
Laura Lutz Tygh Valley, OR	<p>Motion: Hudson moved to accept the designated consultant waiver request for Laura L. Lutz of Tygh Valley, Oregon, through May 31, 2013, per the Business Practice Committee’s temporary approval issued on September 11, 2012.</p> <p>Motion passed. Ayes: Hudson, Lovato, Twombly, Ellsworth, Williams, Gutierrez, and Salisbury.</p>
DC/RC Waiver Review	Walker provided Board members blank copies of the designated consultant waiver application and an excerpt from the rules covering waivers. There was discussion about situations where the waivers are given year after year. The Business Practices Committee will meet to discuss this before the next Board meeting.
Other Business	
Committee Designations	Administration: Salisbury, Gutierrez, Williams. Business Practices: Hudson, Twombly, Lovato. Complaint: Gutierrez, Hudson, Ellsworth. Exam & Education: Williams, Twombly, Salisbury.
Public Comment	
Judith Wilkins	With regards to the open book exam, Wilkins has concern over the Pub 17 having more and more references to “see another Pub,” rather than answering the actual question.
Michael Addington	<p>Addington wanted to clarify whether a public member can participate in those private meetings that are not open to the public. (We believe this refers to committee meetings.) He urged the Board to check with an attorney.</p> <p>He reminded the Board members that the reason the fees are set to change in May, rather than the calendar year in January is because of cash flow.</p> <p>By the end of 2014, all preparers will need to have taken the federal exam. He is not sure putting a lot of resources into the federal portion of our exam is a good idea, because eventually we should be “piggy-backing” on the federal part and not duplicating all the effort and money there.</p>
Adjournment	Salisbury adjourned the Board meeting at 3:45 p.m.

Next meeting:

November 8, 2012

Morrow Crane Building, Salem, Oregon