

**OREGON BOARD OF ACCOUNTANCY
2005 FALL WORK SESSION
MINUTES**

Sunday, October 16, 2005

Eugene Hilton, Oregon

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

Board Members

Stuart Morris, PA, *Chair*
T. Lynn Klimowicz, CPA, *Vice Chair*
Jens Andersen, CPA
Kent Bailey, CPA, *Treasurer*
James Gaffney, CPA
Ray Johnson, CPA
Anastasia Meisner, Esq., *Public Member*

Staff Members

Noela Kitterman, *Investigator*
Kimberly Bennett, *Cmte. Coordinator*
Joyce Everts, *Cmte. Coordinator*
Heather Shepherd, *Cmte. Coordinator*

Guests

Christine Chute, *Asst. Attorney General*
Jim Aldrich, PA, *OAIA Representative*
Cheryl Langley, *OSCPA*
Steve McConnel, CPA, *OSCPA*

Excused

None

1. CALL TO ORDER

Vice Chair T. Lynn Klimowicz called the meeting to order at 10:00 a.m.

A. Appoint Process Observer

Anastasia Meisner was appointed Process Observer.

B. Introduction of Guests

Guests were introduced.

2. Professional Issues

A. Peer Review Oversight

Andersen explained that references to “report reviews with significant issues” in OAR 801-050-0010 (12) and OAR 801-050-0040(2)(d) should be changed to “report reviews with significant comments” to coincide with AICPA Interpretation No. 9. Revisions to the AICPA Peer Review Standards Interpretation No. 9, effective January 1, 2005 include examples of “significant comments”; not “significant issues”. The Peer Review Task Force recommended this revision at their last meeting.

OAR 801-050-0010(12) Definitions, Significant Comments: Significant comments on a report review may include incomplete, missing, or incorrect elements of the report or financial statements where corrective action imposed by the RAB and taken by the firm would be appropriate. The AICPA Peer Review Standards, Interpretation No. 9, lists examples of significant comments that may be considered by the peer reviewer when issuing a report review.

Board Discussion: Board discussion considered whether “report review with significant comments” may be confused with “letter of comments” that accompanies many peer review reports. It was decided that the reference to AICPA Interpretation No. 9 provides sufficient direction. OSCPAs will work to educate the peer reviewers and the firms that are reviewed. The OSCPAs will also work with the Board to determine communication strategies for “getting the word out”.

Andersen requested final review of OAR 801-050-0035(2) that has been revised in response to suggestions made by OSCPA.

Board Discussion: *McConnel offered to respond, stating that OSCPA's purpose in proposing the revisions was to reconcile the conflict that exists between the Board and the peer review program sponsors regarding confidentiality of records. While the Board has authority to require copies of peer review reports from licensees, such reports are not confidential under the Public Records Law. Peer review program sponsors, on the other hand, are held to strict standards of confidentiality.*

The Board concluded that the revisions better describe the role of Peer Review Program sponsors and clearly state that licensees, not peer review program sponsors, are required to provide peer review reports to the Board.

Andersen suggested that the Board may want to have a representative on the Compliance Assurance Review Board (CARB). CARB is considering a pilot program in which Oregon could participate; however the Peer Review Oversight committee expressed hesitation about being on the leading edge.

Board Discussion: *Oregon was one of the first states to have a Peer Review requirement. If the Board is represented on CARB, we will have additional assurance that Oregon issues regarding peer review programs will be considered. The Board agreed that it would be valuable to have a representative on the CARB committee, but not necessarily participate on the pilot program. Andersen indicated his willingness to participate as a CARB committee member, if there is a vacancy. Morris and Klimowicz will inquire about CARB committee membership at the Annual NASBA Conference October 30 and 31, 2005.*

B. Peer Review Task Force

See 2.A. above.

C. Legislative Concept, 2007 Session

Proposed Revision to ORS 673.410 (3) (d) Oregon Board of Accountancy; confirmation; qualifications; enforcement authority. "One must have a current license as a Public Accountant under the laws of this state, in effect for at least five years and be actively engaged in public accountancy practice".

Board Discussion: *Due to the diminishing number of Public Accountants entering the profession, Chute advised the Board to revise the statute as follows:*

"One must have a current license as a Public Accountant under the laws of this state, in effect for at least five years and be actively engaged in public accountancy practice or shall be a member of the general public".

The Board wants to clarify that the Public Accountant board position should continue to be the primary role, and that only an alternate public member should be considered if no Public Accountant is available for the appointment. Chute reminded the Board that legislative concepts are subject to the Governor's approval.

D. Ethics

Board Discussion: *Texas requires exam candidates to complete three college semester hours in ethics before sitting for the CPA exam. Generally, a degree in accounting includes an introduction to business ethics as a part of other courses completed for the degree. However, business ethics does not address the professional code of conduct for public accountants, which is the focus of the ethics course that Oregon applicants are required to complete prior to licensure. The Board would like to see the*

Oregon continuing education ethics requirement evolve into a course that involves more case studies in addition to review of the Oregon statutes and rules. Mr. Johnson will work with the administrator and staff to develop this concept.

E. UAA Exposure Draft dated August 1, 2005

The Board reviewed proposed revisions to the Uniform Accountancy Act (UAA). Comments are due by November 3, 2005.

Proposed revisions define principal place of business as “office location designated by the licensee for purposes of substantial equivalency and reciprocity.” The Board believes that the Oregon definition is more comprehensive, describing the principal place of business as “*the physical location, as identified by a licensee, where the licensee conducts substantial administrative or management activities. For purposes of “substantial equivalency” the physical location cannot be in the State of Oregon.*”

Proposed UAA Section 4 addresses confidentiality provisions. In certain situations the Board may keep records confidential. The Board noted that other states may hesitate to share information with Oregon because of our open records requirements. It was noted that an exemption to the Public Records Act is available to the Board if (1) the individual (or other state board) is not required to provide information to Oregon, and (2) Oregon agrees to accept the information as confidential. Under those circumstances such information is not subject to public disclosure.

Section 7 proposes that if a firm is registered in a state, the licensees associated with the registered firm are not required to obtain authorization under substantial equivalency. The Board expressed concerns because this provision would provide jurisdiction over the firm and not the individuals. The substantial equivalency process in Oregon is very efficient and is usually completed in two days. The Board office will work on developing on-line licensing procedures for substantial equivalency to facilitate the process.

Section 12 proposes that when disciplinary action is taken against a licensee or firm, the Board shall examine its records to determine whether the individual or firm holds a license or authorization to practice in other states. If the individual or firm holds a license in another state, the Board may report the disciplinary action and also furnish investigative information and the hearing record relating to the proceedings resulting in the disciplinary actions. Once again, Oregon Public Records Law requires the Board to provide these records upon written request.

Revisions to UAA Section 23 (Substantial Equivalency) circumvent the 150 hour requirement by proposing to grandfather under substantial equivalency requirements, anyone who passed the CPA exam and holds a license issued by any state prior to January 1, 2012. The Board does not support the proposal.

3. Staff and Board Reports

A. Licensing and Exam

1. AICPA CBT Volume Report

This information was provided to the Board in August. There is not enough information at this point to determine candidate trends. Candidates' main concern at this point is the length of time it takes to receive score notices.

2. Oregon Exam Statistics

Statistics regarding the number of Oregon applications under CBT and the number of candidates who passed the examination were reviewed.

3. 2005 Renewal Report and Statistics

The Board reviewed statistics regarding the 2005 licensee renewal period. The Board was surprised to see that the number of licensees who receive lacking letters for CPE and form-related issues continue to occur in large numbers.

4. Certificates issued 1999 to date

No discussion necessary.

5. Current licensee statistics

No discussion necessary.

6. Peer Review Programs

The Board compared Peer Review Program enrollment numbers.

2004: 852 enrolled firms

2005: 904 enrolled firms

The National Society of Accountants (NSA) issued notice that the NSA Peer Review Program was terminated September 1, 2005, because it is no longer viable from a fiscally responsible position. The OSCP Peer Review Program will provide peer review for firms that were formerly enrolled under the NSA Program. There are currently 27 Oregon firms enrolled with NSA.

B. Enforcement

1. Civil Penalties Policies, Review and Correct Discrepancy

Rives requested the Board to consider whether a civil penalty is appropriate for licensees who do not respond truthfully to the CPE certification on renewal applications, and if so, what amount. New Mexico imposes a \$250 civil penalty for the same violation.

Board Discussion: Refer to 3.C.1.c of these minutes.

2. Complaint Case Statistics

The Board compared complaint statistics for years 2002 through October 5, 2005. Kitterman commented that although fewer complaints were submitted in 2005, the number of serious allegations is higher and that the complexity of the case directly relates to the amount of time required for investigation and final resolution.

Board Discussion: The Board questioned whether the Complaints Committee has enough members. Klimowicz noted that discussions at the committee level are restricted if committee members are absent. The Board is concerned about the timeliness of processing complaints and considered possible solutions: employment of additional staff; use complaint committee subcommittees; have two complaint committees: one committee for general cases and another committee for complicated cases; schedule an additional complaints committee meeting for a total of six annual meetings. The Board will also continue to issue Requests for Proposal (RFP) for complex investigations.

Board Recommendation: Request the Complaints Committee to discuss strategies to expedite review of complaint cases at the next committee meeting.

3. KPMG Offer of Cooperation

Kitterman drafted a letter of inquiry to KPMG for Board approval.

Board Discussion: *We are not aware of any complaints or lawsuits against KPMG in Oregon. A search of the Oregon Judicial Information Network (OJIN) revealed that at least one other Oregon CPA firm sold the same tax shelters to clients. If Oregon opens a complaint, it will be difficult to investigate because of the complexity of the subject matter and the number of files involved. KPMG is negotiating with the federal authorities to resolve the matter. The Board does not want to spend resources on this case at present, but agrees that a letter of inquiry should be sent to KPMG.*

4. 04-05 Accounts Receivable Annual Report to Legislative Fiscal Office

The Board reviewed the *Liquidated and Delinquent Account Report for Fiscal Year 2005*.

C. Administrative

1. Delegated Authority

a. Subpoena Authority

If the Administrator had delegated authority to issue subpoenas, the time required to serve a subpoena would be reduced.

Board Discussion: *Ms. Chute is concerned that the Board does not have authority to delegate this responsibility to the administrator. The Board members discussed the use of electronic signatures combined with verbal authority to sign the Chair's name. Ms. Chute recommends electronic signatures. The Board recommends that all subpoenas receive legal review before being served.*

Board Recommendation: Staff will obtain electronic signatures of the Chair and Vice Chair. The administrator will obtain approval from the Chair or Vice Chair prior to using an electronic signature on any subpoena.

b. CPE Audit Penalty

The Board reviewed the minutes of the May 2004 Board meeting which describes two different motions that need clarification.

Board Recommendation: Under delegated authority, staff is instructed to issued (1) notice of civil penalty of \$250 for failure to respond to a Board communication will be issued to licensees who don't respond to the CPE audit request within 21 days as required by OAR 801-030-0020(7), and (2) a notice of suspension for failure to meet CPE requirements. If the licensee provides required proofs of completion before a final order is issued, the notice of suspension should be withdrawn. The civil penalty of \$250 will not be withdrawn.

c. Penalty for False CPE Certification on Renewal Application

Board Discussion: *Licensees are required to certify on the renewal form that they have completed the required number of CPE hours. This is done by checking either "yes" or "no". This certification was added to the renewal form four years ago in an effort to streamline the issuance of licensee permits. It was also noted that licensees who submit the renewal application before June 30 may be reluctant to respond "yes" when one or more CPE classes will be completed after the renewal is submitted.*

The Board believes that the certification would have more value if the CPE report was not also a required part of the renewal form. Since our renewal form requires a

detailed CPE report, the certification has little value other than confusion. The Board requested that staff present a plan for Board consideration at a later board meeting.

2. Legislative Update

Senate Bill 1101 was signed by the Governor September 2, 2005 authorizing the Board to recover costs of investigations. Christine Chute advised the Board to carefully consider which cases will be assessed recovery costs.

House Bill 2157 was signed by the Governor August 17, 2005 authorizing the Board to require fingerprint samples for criminal background checks. The Department of Administrative Services and the Department of Justice are developing model rules to implement the authority. A fee increase will be necessary to cover the cost of fingerprinting which must be paid by the agency rather than the applicant.

House Bill 3238 was signed by the Governor August 29, 2005. This bill relates to rulemaking and includes no requirements for advisory committees, fiscal impact statements and review of new rules. Staff will be attending administrative rule training regarding the new provisions.

3. Accountancy License Database

a. Letter to Licensees

Ms. Rives prepared a draft notice to licensees regarding the Accountancy License Database (ALD). The letter explains the purpose and content of the database and asks them to voluntarily provide personal information. Ms. Klimowicz commented that it is not clear from the letter that the confidential information remains secure after it is entered on the ALD.

4. NASBA-State CBT Contract

Defer to December 2005 meeting.

5. Sturgis Voting Procedures

No Discussion necessary

6. Committee Vacancies

The Administrator recommends that the membership of the Complaints, Peer Review Oversight and Code of Professional Conduct Committees be expanded with additional members, as described below. The CPE Committee will have two vacancies on December 31. The Administrator also recommends Gerald Burns, CPA, Jessie Bridgham, CPA, and Donald New, PA as additional members to the Peer Review Oversight Committee.

Complaints	two additional members
PRO	three additional members
CPC	one additional member

Board Discussion: *The Board approved Gerald Burns, Jessie Bridgham and Donald New to serve on the PRO committee. Gerald Burgher and Mike Lewis were suggested as additional PRO Committee members, if more members are required. The CPE and the CPC Committees both request members from private industry. Michael Miller and Bob Seymour were suggested for the CPE Committee. Ray Johnson will*

recruit licensees from private industry and James Gaffney will recruit licensees with tax experience to serve on the Complaints Committee.

7. Licensee Question re: Non-CPA Firm Ownership Discrepancies

Rives received an e-mail message from a licensee requesting information about the consequences when firm ownership is reduced to less than the required 51%. Neither the administrative rules nor ORS 673 address this situation.

Board Discussion: *It seems reasonable to have licensee provide written notice to the Board of non-compliance and request 90 days to meet the requirements; however, in the event of the death of a member, 90 days may not be a sufficient amount of time. Chute stated that ORS 673.160(4) states that the requirement must be met before a registration may be issued or renewed.*

Board Recommendation: Request Administrator to develop a legislative concept for Board approval.

8. QAS Approval Program

The Board reviewed and approved a FAQ regarding the QAS requirement and a draft letter to NASBA regarding our concerns about QAS approval of non-technical, independent study CPE programs.

4. Administrative Rule Development

A. Division 001

The changes to division 001 were approved at the August 22, 2005 Board meeting. Christine Chute recommended that the comment period of 10 days provided in 801-001-0055 be increased to 14 days, noting that the Board can always waive or extend a time requirement. Ms. Chute also suggested that the Board delete paragraph 4 of that rule because it is inconsistent with rules already in place.

B. Division 005

No discussion necessary

C. Division 010

No discussion necessary

D. Division 020

No discussion necessary

E. Division 030

Revisions to Division 030 were approved at the August Board meeting, except that the exception of plural firm name revisions and internet address/domain names were deferred to this meeting. Lynn Klimowicz commented that the term "and associates" under the plural name provisions is confusing because it implies that there must be three licensees. The Board agreed and suggested that "and associates" be deleted.

The public communication and advertising section was revised to extend the prohibition of misleading communications to internet domain and e-mail names. The Board agreed with the proposed language.

F. Division 040

No discussion necessary

G. Division 050

Discussion under agenda item 2.B.1.b.

5. Other

None

6. Process Observer Report

Ms. Meisner commented that the report was almost overlooked because it is not listed on the agenda. Everyone provided good discussion, including staff and guests whose input is important. The Board jumped around on the agenda, but for good reason to help the discussion.

7. Adjournment

The meeting adjourned at 3:45 p.m.