

Oregon State Board of Tax Practitioners

Board Meeting Minutes

Date: September 29, 2011

Time: 9:05 a.m. – 2:17 p.m.

Location: Shilo Inn, Newport, Oregon

Attendees:	Dorothy Hudson (Board Chair) Janis Salisbury (Vice-Chair) Alan Twombly Jess Gutierrez Dea Williams Toni Ellsworth Margaret Atchison (Excused)	Staff:	Ron Wagner, Executive Director Monica J. Walker, Compliance/Investigator Jane Billings, Exam & Education Coordinator Marika Dwyer, Licensing Specialist
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Guests:	Dale Marino Arthur Stephens Shirley Warner Zach Harrison Anita Robinson Irene Gresick Mirasol Bannan Wes Gromlich Karen Butler Sharon Bush Anna Handegard Walt Pazdalski Jannette Gardner Judy Lasswell Cathy Baker Vicki Warner	Leona McDonald Shelly Joel Connie Dotson Leslie Butler Nancy Hubbard Stan Gresick Joe Lovato Drina Solomon Mona Linstromberg Susan Parks Hannelore Schroeder Dana Howe Michele Coney Jane Kershaw Debra Marie Baker Janet Morton	Jeannette Stephens Ernst Ray Cecilia Abbas Ida Leman Mamie Carter Steve Valentich Jimmie Hart April Gutierrez Dianna Martinez Milena Rodgers Christopher Painter Jean Andrews Karen Free Alan Kershaw Kirkwood Donavin
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ITEM		ACTION / DISCUSSION
Hudson called the meeting to order at 9:05 a.m.		
Roll called	Board members present: Williams, Salisbury, Gutierrez, Ellsworth, Twombly, and Hudson. Absent: Atchison (excused).	
Executive Session		
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.		
Executive Session 9:10 a.m. – 11:02 a.m.		
Board Meeting Break 11:02 a.m.-11:10 a.m.		
Approval of meeting minutes	<p>The meeting minutes for July 14, 2011, and the Business Practices Committee for July 13, 2011, were previously e-mailed to Board members for review. Salisbury suggested adding dates to changes to rules and when budget bill takes effect.</p> <p>Motion: Salisbury made a motion to accept the July 14, 2011, Board meeting</p>	

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	<p>minutes, with changes, and the Business Practices Committee minutes for July 13, 2011, as presented. Motion passed. Ayes: Ellsworth, Salisbury, Williams, Hudson, Gutierrez, and Twombly. Excused: Atchison.</p> <p>Board meeting minutes are located on the Tax Board Web site at: http://www.oregon.gov/OBTP/meeting_minutes.shtml</p>
Compliance Report	
<p>Reported by Monica J. Walker</p>	<p>Complaints reported from January 1, 2011, through September 26, 2011. General statistics:</p> <ul style="list-style-type: none"> 106 Total cases 11 Reported during Executive Session 9 Action Taken 10 Cases or waivers needing Board action/vote 24 Open investigations 9 Pending Investigations 16 Mediated 48 Closed <p>General counts/Information on complaints:</p> <ul style="list-style-type: none"> 60 Unlicensed/unregistered activity 22 Competency in Services 14 DC/RC/Supervision Requirements 15 Return of records 5 Advertising 7 Other entities 3 Posting of fee schedules 4 Fraudulent Activity 2 Signature Requirements 2 Failure to file a return <p>A licensee requested that question #3 of the compliance section of the renewal forms be changed to say “other entities,” so as to exempt action that the Board itself has taken. Adding a time frame was also suggested. An instance came up where there was previous Board action taken from over 10-15 years ago that board staff might not be aware of. This led Walker to recommend that there is a need to leave the question as is. The Board agreed.</p>
Settlement Agreements & Stipulated Final Orders	
<p>Anne M. Hankins Springfield, OR</p>	<p>Motion: Salisbury moved that the Board enter into a Settlement Agreement and Stipulated Final Order with Anne M. Hankins of Springfield, Oregon to assess civil penalties in the amount of \$500 for violations of the provisions of Oregon Revised Statute 673.605 through 673.740 and the Oregon Administrative Rules adopted thereunder pursuant to 673.700(1)(7) and 673.735(1). Motion passed. Ayes: Twombly, Hudson, Gutierrez, Williams, and Ellsworth. Nays: Salisbury. Excused:</p>

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	Atchison.
Fausta O. Garcia Keizer, OR	Motion: Salisbury moved that the Board enter into a Settlement Agreement and Stipulated Final Order with Fausta O. Garcia of Keizer, Oregon to assess civil penalties in the amount of \$5,150 for violations of the provisions of Oregon Revised Statute 673.605 through 673.740 and the Oregon Administrative Rules adopted thereunder pursuant to 673.700(1)(7) and 673.735(1). Motion passed. Ayes: Hudson, Twombly, Ellsworth, Williams, Gutierrez, and Salisbury. Excused: Atchison.
Pamela M. Miles Oregon City, OR	Motion: Salisbury moved that the Board enter into a Settlement Agreement and Stipulated Final Order with Pamela M. Miles of Oregon City, Oregon to assess civil penalties in the amount of \$3,800 for violations of the provisions of Oregon Revised Statute 673.605 through 673.740 and the Oregon Administrative Rules adopted thereunder pursuant to 673.700(1)(7) and 673.735(1). Motion passed. Ayes: Salisbury, Gutierrez, Ellsworth, Williams, Hudson, and Twombly. Nays:.. Excused: Atchison.
Ramiro Rico Culver, OR	Motion: Salisbury moved that the Board enter into a Settlement Agreement and Stipulated Final Order with Ramiro Rico of Culver, Oregon to assess civil penalties in the amount of \$1,600 for violations of the provisions of Oregon Revised Statute 673.605 through 673.740 and the Oregon Administrative Rules adopted thereunder pursuant to 673.700(1)(7) and 673.735(1). Motion passed. Ayes: Gutierrez, Salisbury, Hudson, Twombly, and Ellsworth. Nays: Williams. Excused: Atchison.
Raul Medrano Newberg, OR	Motion: Salisbury moved that the Board enter into a Settlement Agreement and Stipulated Final Order with Raul Medrano of Newberg, Oregon to assess civil penalties in the amount of \$4,700 for violations of the provisions of Oregon Revised Statute 673.605 through 673.740 and the Oregon Administrative Rules adopted thereunder pursuant to 673.700(1)(7) and 673.735(1). Motion passed. Ayes: Hudson, Twombly, Ellsworth, Williams, and Gutierrez. Nays: Salisbury. Excused: Atchison.
Steven J. Townsend Portland, OR	Motion: Salisbury moved that the Board enter into a Settlement Agreement and Stipulated Final Order with Steven J. Townsend of Portland, Oregon to assess civil penalties in the amount of \$10,360 for violations of the provisions of Oregon Revised Statute 673.605 through 673.740 and the Oregon Administrative Rules adopted thereunder pursuant to 673.700(1)(7) and 673.735(1). Motion passed. Ayes: Salisbury, Gutierrez, Hudson, Williams, Twombly, and Ellsworth. Excused: Atchison.
Notices of Intent	
Daria Nelson Redmond, OR	Motion: Salisbury moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing to Daria Nelson of Redmond, Oregon for 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; and one (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(a and b) for failing to register a tax preparation business at \$100. Motion passed. Ayes: Williams, Twombly, Ellsworth, Hudson, Gutierrez, and Salisbury. Excused: Atchison.

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<p>Donna Grove Portland, OR</p>	<p>Motion: Salisbury moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing to Donna Grove of Portland, Oregon for 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 \$1,000 per violation; all violations of ORS 673.705(2), for representing as licensed when not at \$1,000 per violation; and one (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(b) for failing to register a tax preparation business at \$100. Motion passed. Ayes: Ellsworth, Twombly, Salisbury, Williams, and Gutierrez. Nays: Hudson. Excused: Atchison.</p>
<p>Nguyen, Nguyet Thi Minh Milwaukie, OR</p>	<p>Motion: Salisbury moved that the Board authorize the issuance of a Notice of Intent to Impose Discipline and Right To Hearing to Nguyet Thi Minh Nguyen of Milwaukie, Oregon for two (2) violations of OAR 800-010-0025(7) for engaging in fraudulent, deceptive or dishonest conduct relating to her professional practice at \$2,500; one (1) violation of ORS 673.705(7) and OAR 800-010-0025(8) for violating a position of trust, including a position of trust outside the licensee’s professional practice at \$2,500; and one (1) violation of OAR 800-010-0050(2) for advertising or soliciting clients in a false, fraudulent, deceptive or misleading manner at \$2,000. Motion passed. Ayes: Twombly, Ellsworth, Gutierrez, Salisbury, and Williams. Nays: Hudson. Excused: Atchison.</p>
<p>Steven J. Townsend Portland, OR</p>	<p>Motion: Salisbury moved that the Board issue a Notice of Intent to Impose Discipline and Right To Hearing to Steven J. Townsend of Portland, Oregon for:</p> <p>Four hundred thirty-nine (439) additional violations of ORS 673.615(1) found against Steven J. Townsend 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>Forty-seven (47) additional violations of ORS 673.615(1) found against Steven J. Townsend for preparing, advising, or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure at \$500 per violation;</p> <p>Four Hundred Thirty-nine (439) additional violations of ORS 673.705(2), for representing as licensed when not at \$250 per violation;</p> <p>Forty-seven (47) additional violations of ORS 673.705(2), for representing as licensed when not at \$500 per violation; and</p> <p>One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1)(b) for failing to register a tax preparation business at \$250.</p> <p>Motion passed. Ayes: Twombly, Gutierrez, Ellsworth, Hudson, Williams, and Salisbury. Excused: Atchison.</p>
<p>Cease & Desist Orders</p>	
<p>Steven J. Townsend Portland, OR</p>	<p>Motion: Salisbury moved that the Board issue an Order to Cease and Desist and Notice of Right to Hearing against Steven J. Townsend for preparing, advising or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure. Motion passed. Ayes: Williams, Ellsworth, Salisbury, Twombly, Gutierrez, and Hudson. Excused: Atchison.</p>

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Administration Report	
Budget reported by Ron Wagner	<p>This is the final report on the budget for the biennium July 1, 2009 through June 30, 2011. The projected revenues for the biennium were \$1,138,144; actual revenues were \$1,203,163. Our actual revenue exceeded the projected revenue by \$65,019. The projected expenses for the biennium were \$1,016,527; actual expenditures were \$1,012,437. Our actual expenses were \$4,090 under budget. The Board's ending balance was \$480,631.</p> <p>The projected revenue for the biennium July 1, 2011 through August 31, 2011 is \$33,500. The actual revenue through August 2011 was \$34,149. Our actual revenue exceeds the projected revenue by \$649. The projected expenses for the biennium through August 2011 were \$109,500. The actual expenses to date are \$87,973. Our actual expenses through August are less than the projected expenses by \$21,527. This is mostly due to timing issues of normal operating expenses.</p>
Web Site	The Board's Web site will be transitioning to TeamSite Version 3, changing the look of the Web pages. Wagner expects the upgrade to be completed during the month of October. The state has procured a new contract with a company called NIC. Look for more changes once they take over some time after July 2012.
Increasing Consumer Awareness	An enhancement package to increase public awareness went into the Board's budget for the new biennium. Ways and Means removed this dedicated \$40,000 from our budget. Although a logo could still be created, Oregon College of Art and Craft of Portland did not come up with any designs we liked, so Wagner contracted with Logobee to provide some more options. Hudson asked the licensees in attendance to vote from the logo choices provided.
Licensing Report	
Reported by Marika Dwyer	Dwyer provided a handout to illustrate the trend in licensing with a comparison report including last year's and current statistics. The numbers noted for licensed preparers represent only a fraction as renewals are continually being processed. There are another 10 consultants and businesses added. There has been an increase in inactive and retired preparers. Overall the numbers are pretty consistent.
Lunch 11:59 a.m. - Licensee Luncheon	
Hudson reconvened the Board meeting at 1:28 p.m.	
Exam and Education Report	
Reported by Jane Billings	<p>Billings provided the Board with the current exam statistics for July and August. The pass rates for the preparer exam are 52%, the consultant exam are 26%, and the consultant-state-only (CSO) exam 64%. Also included were the pass percentage rates for the three exams from 2008-2011. Exam rates have been consistent.</p> <p>The volunteers to take the preparer test in August were John Bell, Steve Westfall, Anita Robinson, David Smith and Jennifer Farm. Billings thanked them for their participation. No major changes were made to the preparer exam, and the new version was released on September 1, 2011.</p>

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	<p>All 80-Hour Basic Course sponsors that have submitted complete applications have been approved, and instructor packets have been mailed out. At least three schools had to cancel classes because they did not get their information into the Department of Education in time.</p> <p>The new edition of the General Information Booklet was available online as of September 1, 2011.</p> <p>Billings mailed out 210 continuing education (CE) audits for consultant licensees on September 14, 2011, and already has received half of them back. One licensee realized she did not have enough hours and was given 30 days to come into compliance. Billings asked the Board if this was appropriate. Twombly felt that a licensee such as this should be put on watch for a couple of years to be sure they aren't a habitual offender.</p> <p>The Board administered exam is scheduled at Chemeketa Community College on December 10, 2011. Billings has already had a number of licensees contact the office to volunteer to be proctors. Board members were encouraged to also volunteer as proctors.</p> <p>Billings is assuming that most licensees are becoming more familiar with the resources available online to check themselves if CE they wish to take is acceptable.</p> <p>The Instructor Workshop cost breakdown and attendee responses were provided to Board members. There was a good turnout and it was well received. Billings explained that comments received from attendees reflected the workshop was worthwhile regardless of CE hours not being provided this year.</p>
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Administrative Rules

<p>Reported by Jane Billings</p>	<p>Billings thanked the Rules Advisory Committee. Twenty-one volunteers came in to review current administrative rules and proposed changes on September 15, 2011. There was a great deal of discussion surrounding the mobile endorsement proposal. Billings highlighted comments regarding this for Board members. Other suggested areas of interest included mirroring the federal requirements for CE and how to handle records retention when a licensee passes away. Wagner noted that although there is concern about the timing of the rules hearing being so close to the holidays, December 20, 2011, the comment period is open any time before that.</p>
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Business Practices Committee Report

<p>Reported by Alan Twombly</p>	<p>The Committee met to review the Mobile Endorsement concept for preliminary information gathering and to discuss what the Board's rules cover now for what constitutes a business/branch and to get clarification to further the mission of consumer protection. The comments received from licensees regarding Mobile Endorsement were discussed as well. The current law compels the Board to "turn a blind eye" to what is happening with regard to immobile long-time clients. Walker stated the rules need to be looked at and at the very least an adjustment needs to be made to either allow or disallow the advising or assisting that is taking place at homes.</p>
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Waiver Requests	
Mitzi Picazo-Ibarra Central Point, OR	Motion: Salisbury moved to approve preparer licensure to Mitzi Picazo-Ibarra based on the Board’s review of the circumstances surrounding her history and conduct which resulted in conviction of a class C Felony involving unlawful possession of methamphetamine as per Oregon Revised Statute 673.700 (4)(a) and (b). Motion passed. Ayes: Hudson, Salisbury, Ellsworth, Williams, and Twombly. Nays: Gutierrez. Excused: Atchison.
Public Comment	
Anita Robinson	Requested changing the renewal form to read “how many hours did you complete?”
April Gutierrez	Concerned that NATP is a provider of CE and not an independent accrediting agency. “Why does NATP automatically qualify as a provider of CE?” At the time the Board agreed to accept CE approved by NATP, the Board was not aware that they provided CE. This may need to be examined at the November Board meeting. QAS is part of NASBA. Billings will provide information to be discussed then.
Joe Lovato	With regards to the mobility endorsement, how would the Board address security of client information? Take this under consideration to protect licensees.
Other Business	
Newsletter/ Comments	Ellsworth recommended reading the Tax Board Bulletin newsletter because it offers pertinent, valuable, and timely information. Encouraged licensees to continue to send in comments because the Board looks at them all.
New Fiber Line/ Interpreters	Salisbury inquired about how this is coming, and Wagner shared that it is still in the process – state moves slowly. There has been only one licensee willing to share her second language skills (Turkish), so the Board may have to look harder for assistance in this area. Billings noted that the state has contracted with an interpretive service if needed.
Newsletter	Wagner shared that the November newsletter comes out November 15, 2011, so the deadline for turning in articles is October 25, 2011. Salisbury will get her article about how Oregon law is tying in with the new IRS rules in by October 28, 2011. Twombly will do a clarification article about why and what is proposed for the mobile endorsement because there is a lot of licensee concern. Williams will do an article on divorce issues. Wagner reminded the Board that licensees can submit articles as well. Ellsworth will do a public awareness article with Wagner’s help. Gutierrez will do an article clarification regarding including license numbers on advertising. Hudson will provide a note from the Board Chair.
Adjournment	
Hudson adjourned the Board meeting at 2:17 p.m.	

Next meeting:
November 10, 2011
Morrow Crane Building, Salem, Oregon