

Oregon State Board of Tax Practitioners Board Meeting Minutes

Meeting Date: January 11, 2012

Time: 9:14 a.m. – 6:10 p.m.

Location: Morrow Crane Building, Salem, Oregon

Attendees: Dorothy Hudson (excused) (Board Chair)
Janis Salisbury (Vice-Chair) (Acting Chair)
Alan Twombly
Toni Ellsworth
Jess Gutierrez (excused)
Dea Williams

Guests: Linda Thomas
Susan Parks, OAIA
Dale Marino, ORSEA
John Bell

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

ITEM	ACTION / DISCUSSION
Salisbury called the meeting to order at 9:14 a.m.	
Roll called	Board members present: Twombly, Ellsworth, Salisbury, and Williams. Excused: Hudson and Gutierrez.
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 9:15 a.m. - 12:31 p.m.	
Lunch 12:31 p.m.	Salisbury reconvened the Board meeting at 1:00 p.m.
Minutes	
Approval of meeting minutes	<p>Motion: Twombly made a motion to accept the November 10, 2011, Board meeting minutes as amended by Salisbury. Motion passed. Ayes: Williams, Ellsworth, Twombly, and Salisbury. Excused: Hudson and Gutierrez.</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	
Reported by Monica J. Walker	<p>Consideration for Donna Grove has been postponed because additional information is needed.</p> <p>Complaints reported for the calendar year 2011.</p> <p>General statistics:</p> <ul style="list-style-type: none"> 128 Total cases 9 Reported during Executive Session (cases/waivers) 16 Action Taken 6 Cases needing Board action/vote

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	<ul style="list-style-type: none"> 3 DC Waivers needing Board action/vote 1 Waiver to become licensed needing Board action/vote 18 Open investigations 7 Pending investigations 19 Mediated 68 Closed <p>General counts/Information on complaints:</p> <ul style="list-style-type: none"> 69 Unlicensed/unregistered activity 29 Competency Services 15 DC/RC/Supervision Requirements 16 Return of records 5 Advertising 10 Other entities 3 Posting of fee schedules 5 Fraudulent Activity 3 Signature Requirements 2 Failure to file a return <p>Settlement Agreements that have been signed and are on a payment plan with the Board: Jamasa Sattler, Ramiro Rico, Fausta Garcia, Raul Medrano, and Pamela Miles.</p> <p>Settlement Agreements that have been signed and are paid in full: Alice McCullough, Anne Hankins, and Daniel Cleary.</p>
Settlement Agreements	
Daria Nelson Redmond, OR	<p>Motion: Ellsworth moved that the Board enter into a Settlement Agreement and Stipulated Final Order with Daria Nelson of Redmond, Oregon to assess civil penalties in the amount of \$1,450 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).</p> <p>Motion passed. Ayes: Twombly, Williams, Salisbury, and Ellsworth. Excused: Hudson and Gutierrez.</p>
John Robideau Portland, OR	<p>Motion: Ellsworth moved that the Board enter into a Settlement Agreement and Stipulated Final Order with John F. Robideau of Portland, Oregon to revoke the consultant license (#5383-C) of and assess civil penalties in the amount of \$4,000 for continued 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).</p> <p>Motion passed. Ayes: Williams, Twombly, and Salisbury. Nays: Ellsworth. Excused: Hudson and Gutierrez.</p>

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<p>Quentin Stanhope Lincoln City, OR</p>	<p>Motion: Ellsworth moved that the Board enter into a Settlement Agreement and Stipulated Final Order with Quentin Stanhope of Lincoln City, Oregon to assess civil penalties in the amount of \$1,025 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).</p> <p>Motion passed. Ayes: Williams, Salisbury, Ellsworth, and Twombly. Excused: Hudson and Gutierrez.</p>
<p>Nguyet Nguyen Portland, OR</p>	<p>Motion: Ellsworth moved that the Board enter into a Settlement Agreement and Stipulated Final Order with Nguyet Nguyen of Portland, Oregon to assess civil penalties in the amount of \$2,000 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).</p> <p>Motion passed. Ayes: Twombly, Williams, Salisbury, and Ellsworth. Excused: Hudson and Gutierrez.</p>
<p>Steven Townsend Portland, OR</p>	<p>Motion: Ellsworth moved that the Board enter into a Settlement Agreement and Stipulated Final Order with Steven Townsend of Portland, Oregon to assess civil penalties in the amount of \$5,000 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).</p> <p>Motion passed. Ayes: Salisbury, Ellsworth, Williams, and Twombly. Excused: Hudson and Gutierrez.</p>
Notices of Intent	
<p>Morris Yasavolian Aloha, OR</p>	<p>Motion: Ellsworth moved that the Board authorize the issuance of a Notice of Intent to Revoke the consultant license of and Impose Discipline and Right To Hearing to Morris M. Yasavolian (license #69074-P) of Aloha, Oregon for:</p> <p>Three (3) violations of ORS 673.705(6) and OAR 800-010-0025(7), engaging in fraudulent, deceptive or dishonest conduct relating to the licensee’s professional practice, in the amount of \$1,000, per violation;</p> <p>Three (3) violations of ORS 673.705(7) and OAR 800-010-0025(8), violating a position of trust, including a position of trust outside the licensee’s professional practice, in the amount of \$1,000, per violation;</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; and</p> <p>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.</p> <p>Motion passed. Ayes: Williams, Salisbury, Twombly, and Ellsworth. Excused: Hudson and Gutierrez.</p>

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Exam and Education Report

Reported by Jane Billings

Exam statistics reflecting pass rates for the months of October, November, and December were reported.

Cumulative pass rates for the preparer, consultant and consultant-state-only exams included 2006 and 2007. The report now reflects the pass rates from 2006 to December 2011.

An additional breakdown of consultant results was given to the Board that provided a clearer understanding of how many times applicants are taking the exam to pass. These results reflect applicants that were approved to take the exam approximately from June 1, 2011 to January 5, 2012, however they may have attempted to take the exam over multiple years.

Consultant-State-Only – 33 total

2 are signed up to take the exam currently – 1 of these is retaking for the 2nd time and 1 for the 1st time

3 failed 1 time and have not yet signed up to retake
1 failed 2 times and has not yet signed up to retake

19 passed on their 1st time
7 passed on their 2nd time
1 passed on their 3rd time

Consultant – 84 total

1 signed up but was a no-show
9 are signed up that will be taking it for the first time

Passed – total 21:

15 passed their 1st time
4 passed on their 2nd time
1 passed on their 4th time
1 passed on their 6th time

Failed – 53 total

Not yet signed up to retake:

13 failed their 1st time
14 failed their 2nd time
3 failed their 3rd time
4 failed their 4th time
1 failed their 6th time
1 failed their 7th time
1 failed their 8th time
1 failed their 9th time
1 failed their 11th time

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14 failed and are currently signed up to retake. Of these 14 - 7 have taken it 1 time, 3 have taken it 2 times, 1 has taken it 3 times, 1 has taken it 4 times, 1 has taken it 11 times and 1 has taken it 19 times.

Billings asked for additional clarification from the Board about what is and what is not acceptable with regards to source documents. The Board discussed concerns regarding tabbing and the use of Post-it notes or divider pages, notebooks, color coding source documents, and what they would consider acceptable. The Board decided that tabs and Post-it notes were acceptable; however separate divider pages are not acceptable. The Board also discussed the use of foreign language dictionaries. It was decided that they will not be allowed. Applicants for both the preparer and consultant exams that have language barriers will be allowed to use IRS Pub 850 "English-Foreign Language Glossary of Words and Phrases" if they wish.

Billings shared with the Board some of the challenges faced this season due to changes implemented by H & R Block on how applications were submitted, and scheduling of exam sittings at various proctor sites. Some of these changes affected the agency workload. A meeting is scheduled with Randy Shimek and a representative from Block's corporate office for Tuesday, January 17, 2012. This will allow staff to discuss some of these changes and brainstorm ways to work together to improve the process next year.

The Board Administered Exam held on Saturday, December 10, 2011 at Chemeketa Community College went very well. A total of 127 applicants registered to attend. One person cancelled prior to the exam, and five were "no-shows." (A total of 157 took the exam at this offering in 2010 last year.) Twelve volunteers assisted along with Board member Dea Williams and office staff. Billings thanked all the volunteers for their time and efforts, and is now working with Chemeketa Community College to secure the site for the 2012 exam scheduled for Saturday, December 8, 2012.

Billings reported on the continuing education (CE) audits:

Consultants – From the original list of names pulled for the CE audit this year there were 18 licensees that were in lapsed status when the audits were mailed out. As they have been reactivating their licenses, they have been sent audit notification. Now 11 of the 18 have reactivated their licenses and have been audited for CE. They have all replied. The seven remaining consultants will be audited once they reactivate their licenses.

Preparers – There were 190 preparers selected for the CE audit. Letters were mailed out in early November, and licensees had until December 15th to respond. Out of the 190 audited, five had retired their licenses, and 137 had responded and submitted acceptable CE. Three had issues with the CE they submitted and have been granted an additional 30 days to come into compliance. Of licensees pulled randomly for audit, 42 had not yet renewed their licenses and were in lapsed status when the audit letters were mailed out. They will continue to be monitored, and when they reactivate their licenses will be notified of their selection in the CE audit. Six of the 42 have reactivated their licenses since the audit letter went out and have been notified they

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	<p>must submit their hours within 30 days of notification. On December 22, 2011, five of the licensees originally notified of the audit had not replied and were sent 2nd notices, allowing them an additional 30 days to submit documentation.</p> <p>Billings presented the Board with a request from a licensee to allow CE credit for taking the EA exam. The Board discussed this request and ultimately decided to not allow CE credit.</p>
<p>Administration Report</p>	
<p>Budget reported by Ron Wagner</p>	<p>The projected revenue for the biennium July 1, 2011 through November, 2011 is \$224,500. The actual revenue through September 2011 was \$230,067. Our actual revenue is \$5,567 more than the projected revenue. The projected expenses for the biennium July 1, 2011 through December 2011 were \$233,500. The actual expenses through September 2011 are \$227,430. Our actual expenses are \$6,070 less than the projected expenses.</p> <p>Wagner shared an article that the Oregonian published regarding state travel, reminding the group that boards need to be aware of public perception. The group agreed that the outreach meeting and licensee luncheon was something worth continuing, despite the travel expense.</p> <p>The fiber optic line has been installed.</p> <p>The Board of Accountancy is working with a developer to set up online registration. Wagner stressed to the Board that he will respond to any talk of a sweep of funds that money in our ending balance should be set aside for an online registration project for the Board.</p> <p>The logo voted on in the last meeting was shared and comments were made. Wagner will forward information to Logobee.</p>
<p>Administrative Rules Review</p>	
<p>Rule Review facilitated by Jane Billings</p>	<p>Billings reported on the proposed rulemaking hearing on December 20, 2011. Before receiving comment Billings briefly summarized the proposed rules. No one attended to present oral comments. Twelve comments were submitted in writing. Eleven of the written comments were received prior to the hearing. One additional comment was received prior to 5 p.m., on December 22, 2011, the deadline for written comments. The following individuals made written comment and their comments were included in the report to the Board:</p> <ol style="list-style-type: none"> 1. Caty Giovinco 2. Wendy Jones 3. Jeffrey Schuh 4. Stanley Turel (via Alice McCullough – Oregon Tax Loop) 5. Jack Goldberg 6. Alice McCullough 7. Jan Salisbury 8. Ron Wagner 9. Alan Twombly

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	<p>10. Dorothy Hudson 11. Jess Gutierrez 12. Merry VanAtta</p> <p>Highlights of discussion for proposed rule changes included:</p> <ul style="list-style-type: none"> • Clarification of how to indicate OBTP/LTC/LTP license registration number (use the acronym or not) on advertising (outcome – use acronyms as stated in new rule) • Discussion over changing wording of “may” to “shall” -OAR 800-015-0005 • Attestation of CE hours on licensee renewals • Elimination of NATP and QAS -OAR 800-015-0010(10)(c) • Changing “copy” to “photocopy” of an official transcript • Clarification that licensees can’t receive credit for repeat of CE courses from the same instructor within the same CE reporting period • Not adding Cash Oregon to volunteer entities • Clarification of OAR 800-020-0022 pertaining to disqualification of exam and fees (outlines procedures necessary for applicants previously disqualified to request approval to retake exam. • Tax businesses need to comply with applicable State Fire Marshal requirements –OAR 800-025-0020 • Licensees are only eligible for combo discount for one business owned • “Fees” changed to “valuable consideration” -OAR 800-010-0015 • Requiring licensees to maintain a record of attendance for all CE courses for a total of four years instead of two as previously required -OAR 800-015-0010 • Expanding acceptable topics for CE to include tax representation: exam, collection or appeals -OAR 800-015-0020 <p>Motion: Williams moved that the Board accept the Oregon Administrative Rule changes as reviewed.</p> <p>Motion passed. Ayes: Salisbury, Ellsworth, Williams, and Twombly. Excused: Hudson and Gutierrez.</p> <p><i>Rules review is continued under Other Business page 9.</i></p>
Break 3:25 p.m. - 3:34 p.m.	
Licensing Statistics	
<p>Statistics reported by Marika Dwyer</p>	<p>The numbers in the Board books reflect figures collected on December 30, 2011, but with a quick update to include the backlog from over the holidays, there is a substantial increase in newly licensed preparers. Several consultants have retired.</p> <p>Wagner noted a large number of preparers get licensed and then retire or don’t renew each year, increasing the workload for the office to create new files and records for the seasonal influx.</p>

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Waiver Requests	
David Hassenstab Salem, OR	<p>Motion: Twombly moved to approve preparer licensure and enter into a Stipulated Agreement with David J. Hassenstab based on the Board's review of the circumstances surrounding his history and failure to adhere to disclosure requirements which included a criminal conviction of a class A misdemeanor as per Oregon Revised Statute 673.700 (4)(a) and (b).</p> <p>Motion passed. Ayes: Salisbury, Williams, and Twombly. Nays: Ellsworth. Excused: Hudson and Gutierrez.</p>
James Anglin Gresham, OR	<p>Motion: Twombly moved to accept the designated consultant waiver request for James C. Anglin of Gresham, Oregon through May 31, 2012, effective immediately.</p> <p>Motion passed. Ayes: Ellsworth, Williams, Salisbury, and Twombly. Excused: Hudson and Gutierrez.</p>
Teresa Noe Gresham, OR	<p>Motion: Twombly moved to accept the designated consultant waiver request for Teresa L. Noe of Gresham, Oregon through May 31, 2012, effective immediately.</p> <p>Motion passed. Ayes: Ellsworth, Williams, Salisbury, and Twombly. Excused: Hudson and Gutierrez.</p>
Milderd Jackson Gresham, OR	<p>Motion: Twombly moved to accept the designated consultant waiver request for Mildred H. Jackson of Gresham, Oregon through May 31, 2012, effective immediately.</p> <p>Motion passed. Ayes: Salisbury, Williams, Twombly, and Ellsworth. Excused: Hudson and Gutierrez.</p>
Public Comment	
Dale Marino	<p>Marino stated there is no accountability for unlicensed volunteer tax preparers. They are not required to get a PTIN, or have a background check, and only need to take a short tax course and an open book exam to become an IRS certified volunteer preparer. Marino noted concern with the low accuracy statistics of 39%, citing a 2011 Treasury Inspector General for Tax Administration report. He is also seeing the cost of preparing a return as the deciding factor in where taxpayers go, to their detriment. He asked the Board, as a consumer protection agency, to propose a legislative change to include the volunteer tax preparers under the Board's regulations.</p>
John Bell	<p>IRS Accrediting Association says CE providers cannot be accrediting organizations because they provide continuing education. Bell suggested that the Board require licensees retain CE records four years similar to the IRS. Bell would like the Tax Board to be an IRS approved accrediting organization.</p> <p>Bell also shared his beliefs that volunteer preparers may be doing work beyond their expertise, citing a costly mistake that resulted in a civil penalty for a taxpayer.</p>
Linda Thomas	<p>Thomas asked the Board to give specific guidance about license posting requirements for advertising and outdoor signage. She also would like the fees for consultants reduced if there will be a surplus in the Board's budget. Lastly she cautioned the Board regarding the wording of the State Fire Marshal reference in the rules.</p>

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Other Business	
New Board Members	Wagner noted that he has spoken with the new contact person for executive appointments with the Governor’s office, Kendall Clawson. The deadline to apply has been moved up, and there have been several applications made. Hudson is interested in serving another term. Ellsworth’s term will be ending after the next Board meeting, and Twombly will be serving through the end of the year.
Review of Fire Marshal reference	Discussion here in the proposed rules ended with “all tax preparation businesses shall comply with State Fire Marshal Address Identification requirements.”
Cash Oregon	Salisbury voiced concern over whether or not the supervisors of volunteers need to come under the Board’s jurisdiction, and why the IRS is not requiring the volunteer preparers to register. Wagner will contact the Cash Oregon director and have a discussion about policies and procedures they use.
Rules Review (continued)	
	<p>Motion: Twombly moved to reconsider the adoption of the Administrative Rules that were passed earlier in the meeting for further consideration and changes.</p> <p>Motion passed. Ayes: Williams, Twombly, Ellsworth, and Salisbury. Excused: Hudson and Gutierrez.</p>
	<p>Motion: Twombly moved to change rule 800-025-0020(4) to read “All tax preparation businesses shall comply with State Fire Marshal Address Identification requirements.”</p> <p>Motion passed. Ayes: Ellsworth, Salisbury, Williams, and Twombly. Excused: Hudson and Gutierrez.</p>
	<p>Motion: Williams moved to accept all changes and readopt the Administrative Rules as amended.</p> <p>Motion passed. Ayes: Salisbury, Ellsworth, Twombly, and Williams. Excused: Hudson and Gutierrez.</p>
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 4:45 p.m. - 6:08 p.m.	
Examination Question Review	
	<p>Motion: Williams moved to accept the changes reviewed from the question and comment forms of the exam questions.</p> <p>Motion passed. Ayes: Twombly, Salisbury, Ellsworth, and Williams. Excused: Hudson and Gutierrez.</p>
Adjournment	Salisbury adjourned the Board meeting at 6:10 p.m.

Next meeting:
May 10, 2012

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Morrow Crane Building, Salem, Oregon