

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska
MINUTES

January 18-19, 2001

1. General

A. Call to Order and Roll Call. The Board of Public Accountancy was called to order at 4:15 p.m. on Thursday, January 18, 2001 with Chair H. Dean Graf presiding. The roll was called with the following members present: Dean Graf, William Gaines, William Nuckolls, Nina Kavich, Richard Hoiekvam, George Klein, Michelle Thornburg and Kathleen Smith. Also present was Executive Director, Annette Harmon. The meeting was held at the Board's office at the Holiday Inn Express, 920 South 20th Street, Norfolk, Nebraska.

B. Approval of meeting agenda for January 18-19, 2001. Moved by Klein, seconded by Gaines, to approve the agenda for the January 18-19, 2001 meeting as written. On roll call vote, all members present voted aye. Motion number 1 carried.

C. Approval of the minutes of the November 16-17, 2000 Board meeting. Moved by Thornburg, seconded by Nuckolls, to approve the minutes as written. On roll call vote, all members present voted aye. Motion number 2 carried.

2. Consent Agenda

Approval of Consent Agenda by Roll Call Vote. Moved by Hoiekvam, seconded by Smith, to approve the Consent Agenda. On roll call vote, all members present voted aye. Motion number 3 carried.

A. Published Notice of Meeting. Pursuant to call and published notice, the notice of meeting is herewith attached.

B. Review of Board Budget Status Report. The Board reviewed the December 31, 2000 Budget Status Report.

C. Approval of November and December 2000 disbursements. The Board reviewed and approved the November and December 2000 disbursements.

D. Requests for Acceptance of Surrendered Certificates and Approval of Retired Classification. The voluntary surrender of CPA certificate #6307 issued to Geoffrey Huggins was accepted, and the classification of Inactive Retired was accepted for William H. Bayer and Harold A. Buesing.

E. Office Management Report. The Board reviewed a report on permits and registrations issued as of December 15, 2000. Prior year's statistics were also reviewed for comparison.

3. New Business

A. NASBA. 1. Attendance at CPE Conference. Moved by Gaines, seconded by Hoiekvam, to approve the expenses for attendance of the Executive Director at NASBA's CPE conference March

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18-20, 2001 in San Diego, California. On roll call vote, all members present voted aye. Motion number 4 carried.

2. Nominations for NASBA Vice Chair/Directors. Moved by Smith, seconded by Nuckolls, to nominate Kent Smoll, with his acceptance, as the Central Region Nominating Committee Representative. On roll call vote, all members present voted aye. Motion number 5 carried.

B. Report on Attendance at AICPA Computerized Exam Issues Meeting. The AICPA held a forum in Kansas City January 11-12, 2001 on computerized examination issues. Dean Graf, Bill Nuckolls, Jerry Batliner and Annette Harmon attended on behalf of the Nebraska Board of Public Accountancy. Graf, Nuckolls and Harmon reported on the issues presented, including legislative and rules issues, security issues, costs and the role of Prometric and the AICPA in delivering the CPA exam.

4. Discussion on Items from “Advance” - Topics Continued

A. Recap of July, September and November 2000 Meetings. The Board reviewed a Quick Poll summary of other jurisdictions regarding their requirement for good moral character, as well as statutory and regulatory language from various states and the Nebraska Bar Association, and discussed proposed regulatory language for defining it.

The Board reconvened on Friday, January 19, 2001 at 8:45 a.m. with all Members and the Executive Director present.

4. Discussion on Items from “Advance” - Topics Continued

B. Bill Drafting Procedures. The Board directed the Executive Director to prepare a draft for the Board’s review at the April meeting, utilizing the resources of the Bill Drafter’s office.

Hearing for Reinstatement of Revoked CPA Certificate

The Board held a hearing for the purpose of reinstatement of the revoked CPA certificate of Tsuey-Hwa Shen. Kathleen Smith served as the hearing officer. Ms. Shen was not present nor represented by Counsel but had submitted a letter of explanation that was entered into the record. Present and participating in this matter were Members Dean Graf, William Gaines, William Nuckolls, Nina Kavich, Richard Hoiekvam, George Klein, Michelle Thornburg and Kathleen Smith.

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CLOSED MEETING

Closed Meeting. Moved by Smith, seconded by Gaines, that the Board go into closed session at 9:35 a.m. for the purpose of enforcement, personnel and litigation issues. On roll call vote, all members present voted aye. Motion number 6 carried.

Member Hoiekvam recused himself from a portion of the closed session and left the conference room during that part of the closed meeting.

Return to Open Meeting. Moved by Smith, seconded by Hoiekvam, that the Board return to open session at 1:51 p.m. On roll call vote, all members present voted aye. Motion number 7 carried.

Hearing for Reinstatement of Revoked CPA Certificate

Moved by Smith, seconded by Gaines, to reinstate the CPA certificate of Tsuey-Hwa Shen. On roll call vote, all members present voted aye. Motion number 8 carried.

Moved by Smith, seconded by Hoiekvam, to appoint William Gaines as the Hearing Officer for the purpose of hearing Reinstatement requests for CPA Certificates that have been revoked for failure to take action on a permit. On roll call vote, all members present voted aye. Motion number 9 carried.

6. Report of Enforcement of Professional Conduct Committee

A. Complaint Consent Agenda. Moved by Smith, with the Committee's recommendation, to approve the Complaint Consent Agenda. On roll call vote, all members present voted aye. Motion number 10 carried.

B. Findings of Fact/Conclusions of Law for Gerard Forget: Complaint #99-07. Moved by Smith, with the Committee's recommendation, to accept the Findings of Fact and Conclusions of Law by Kent Radke, as amended, and the Decision and Order to revoke Forget's CPA certificate #6373 and that the judgment be suspended upon the condition that the Respondent does not use or associate his name with the term certified public accountant or the abbreviation CPA in any form or manner. The Respondent may refer to his completion of the Uniform Certified Public Accountants exam and/or membership in a professional association on the condition that any such reference contains the following statement: "I passed the Uniform Certified Public Accountants examination on May 8, 1996 but I have not met all the requirements for a permit to practice public accountancy and therefore I am not a CPA." On roll call vote, all members present voted aye, except Member Thornburg who abstained. Motion number 11 carried.

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C. Findings/Conclusions/Decision and Order for Jeffrey Benne: Complaint #00-04. Moved by Smith, with the Committee's recommendation, to approve the Findings of Fact and Conclusions of Law as prepared by Kent Radke, with the additional statement that he received his CPA certificate on March 9, 1995. On roll call vote, all members present voted aye. Motion number 12 carried.

Moved by Smith, with the Committee's recommendation, to approve and adopt a Decision and Order revoking the CPA Certificate #5777 issued March 9, 1995 to Jeffrey L. Benne. On roll call vote, all members present voted aye, except Members Hoiekvam and Klein who voted nay. Motion number 13 carried.

D. Complaint #00-05 Failure to Follow Auditing Standards. The Board is continuing to monitor the complaint.

E. Complaint #00-07 Violation of Independence Standards. The Board directed further investigation of the complaint.

F. Complaint #0001-001 Failure to Return Records/Form of Practice. The Board directed further investigation of the complaint.

G. Complaint #0001-002 Use of Term. Moved by Smith, with the Committee's recommendation, that personnel investigate the current listings in the US West directory and the Internet and send the Respondent a Cease and Desist Order and the Board's form for the removal of a telephone directory listing. On roll call vote, all members present voted aye. Motion number 14 carried.

H. Look Back Agreement. NASBA has asked us to make a determination regarding the "Look Back Agreement" for firms with independence violations pursuant to the SEC request. Moved by Smith, with the Committee's recommendation, to write NASBA that the Nebraska Board of Public Accountancy is not participating in the Look Back Agreement at this time. On roll call vote, all members present voted aye. Motion number 15 carried.

I. Petition For Agency Declaratory Order. Moved by Smith, with the Committee's recommendation, that an Agency Declaratory Order be drafted denying the use of the Firm name "Cooperative Servicing, LLC" as being prohibited by the Public Accountancy Act, Section 1-134 and Title 288, Revised and Substituted Rules of the Board, Chapter 5, Section 007.03 and Chapter 11, Section 002 and that it would be the use of a fictitious name for the practice of public accountancy. On roll call vote, all members present voted aye. Motion number 16 carried.

J. Complaint #0001-003 Failure to Release Client Records. The Board has directed final investigation of the complaint. No action necessary at this time.

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K. Discussion of Informal Attorney General Opinion. The Board determined that no action was necessary at this time. However, changes to the final settlement will be discussed at the next meeting.

7. Legislation and Rules

A. Exam Changes. The Board reviewed LB 455 that was introduced by Senator Jon Bruning at the Board's request. Members discussed testimony and a draft will be circulated for comment before presentation by Chair Graf.

B. Bill Watch 2001. Legislation that was introduced this session that was of interest to the Board was reviewed via the "Bill Watch" spreadsheet. The progress of legislative bills this session will continue to be monitored.

8. Report of Educational Advisory Committee

Report from the Chair. Nina Kavich, Committee Chair, reported that there was a minor problem with some candidates who attended universities or colleges who only confer degrees one time a year. Since the law indicates that the degree must be earned, a letter from the institution saying the candidate has earned the degree will satisfy the requirements. A foreign transcript will also need to be evaluated for qualifications.

9. Report of Continuing Education Committee

A. Ratification of staff program evaluations since last meeting. Moved by Gaines, with the Committee's recommendation, to approve courses that have been evaluated and approved by the staff since the last meeting. On roll call vote, all members present voted aye. Motion number 17 carried.

Moved by Gaines, with the Committee's recommendation, to disqualify courses #00-642, 00-0644, 00-645, 00-648 to 00-651, 00-652 to 00-657, 01-06, 01-80 and 01-81. On roll call vote, all members present voted aye. Motion number 18 carried.

Moved by Gaines, with the Committee's recommendation, to amend Motion number 18 to disqualify courses #00-650 and 00-651, and to defer courses #00-648 and 00-649 to the next meeting. On roll call vote, all members present voted aye. Motion number 19 carried.

Gaines also discussed the problems concerning courses that are audio teleconferences, and that the Committee will be discussing a policy recommendation for these courses for possible adoption by the Board.

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10. Report of Examination & Licensing Committee

A. Ratification of initial permits to practice issued; certificates issued. Moved by Nuckolls, with the Committee's recommendation, to ratify the initial permits to practice and certificates issued by examination and reciprocity. On roll call vote, all members present voted aye. Motion number 20 carried.

B. Application(s) for Reinstatement to Active Permit. Moved by Nuckolls, seconded by Thornburg, to approve the application for Reinstatement to Active Permit. On roll call vote, all members present voted aye. Motion number 21 carried.

C. Office and Workspace Guidelines. Moved by Nuckolls, with the Committee's recommendation, that the Board policy regarding registered offices be amended as follows: 1) the requirement that an office must be open a minimum of 30 hours a week be eliminated; 2) the requirement that an office manager live within a commuting distance of "50 miles" be amended to a "reasonable" commuting distance; and 3) a licensed CPA must be present during office hours.

Moved by Klein, seconded by Hoiekvam, to amend the motion to change item #3 to: a licensed CPA must be present a sufficient amount of time to adequately supervise the work being produced by the office. On roll call vote, all members present voted aye. Motion number 22 on the amendment carried.

Smith offered an amendment to replace "sufficient" with "a majority of the time the office is open." Kavich seconded the amendment. On roll call vote, all members present voted aye, except Members Klein and Hoiekvam who voted nay. Motion number 23 carried.

As to the original motion by the Committee, as amended, on roll call vote, all members present voted aye, except Members Klein and Hoiekvam who voted nay. Motion number 24 carried.

Moved by Nuckolls, with the Committee's recommendation, that for purposes of the Workspace Rules the term "temporary" be defined as a period of four months or less of a calendar year. After discussion, Nuckolls and the Committee withdrew the motion.

Moved by Kavich, seconded by Klein, that for purposes of the Workspace Rules the term "temporary" be defined as a period of five months or less or the equivalent in a calendar year. On roll call vote, all members present voted aye, except Member Gaines who voted nay. Motion number 25 carried.

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D. Request for CPA Certificate Issuance – Misdemeanor Charge. Moved by Nuckolls, with the Committee's recommendation, that the application be approved and the certificate be issued. On roll call vote, all members present voted aye. Motion number 26 carried.

F. Policy on Stipulation and Consent Orders for Late Active Permit Renewals. Moved by Nuckolls, with the Committee's recommendation, to approve the proposed amendment to the Board policy as follows: "Individuals who have previously (since June 1998) failed to timely file an application to renew their active permit. An active permit to practice or an inactive permit shall be issued when an individual has filed an application for a permit to practice or inactive permit, has executed a Stipulation and Consent Order, and has paid an administrative fee of \$250 for the first occurrence of late filing or an administrative fee of \$500 for the second occurrence of late filing." On roll call vote, all members present voted aye. Motion number 27 carried.

G. Request for Exam Fee Refund. Moved by Nuckolls, with the Committee's recommendation, to approve the refund of the application fee of Michael Hanus and Cathy Hanus, noting that the refund makes their applications null and void. On roll call vote, all members present voted aye. Motion number 28 carried.

H. Policy on Reciprocal Certificate Application. After discussion, it was determined that no action was necessary.

I. Application and Licensing Forms. Moved by Nuckolls, with the Committee's recommendation, to approve the revised application and licensing forms, with the exception of the reciprocal CPA certificate application and that part of any question that contains the phrase "and can only do so in a licensed, registered CPA firm."

Kavich amended the motion that any place on any form where it asks to list full-time employees that we substitute the question "How many full-time, permanent employees are in your firm?" Klein seconded the amendment. On roll call vote, all members present voted aye. Motion number 29 carried.

As to the Committee's motion, as amended, on roll call vote, all members present voted aye. Motion number 30 carried.

Moved by Hoiekvam, seconded by Smith, that the 01/01/01 Reciprocal CPA Certificate Application be adopted except that item #3 be taken out and the wording from the previous form be used. On roll call vote, all members present voted aye. Motion number 31 carried.

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E. Approval of Grades for November 2000 CPA Exam. Moved by Nuckolls, seconded by Klein, to approve the grades provided by the AICPA with the exception of Candidate #1-34-0169. On roll call vote, all members present voted aye. Motion number 32 carried.

Moved by Kavich, seconded by Klein, to write Candidate #1-34-0169 that if the 150 hours are met, then when the Business Ethics subject requirement is met the candidate's grades may be released. On roll call vote, all members present voted aye. Motion number 33 carried.

11. Adjournment

It was moved by Kavich, seconded by Smith, that the Board adjourn at 5:34 p.m. On roll call vote, all members present voted aye. Motion number 34 carried.

Submitted by,

William Nuckolls
Secretary