

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

January 18, 2002

General

A. Call to Order and Roll Call. The Board of Public Accountancy was called to order at 8:00 a.m. on Friday, January 18, 2002 with Chair Nina B. Kavich presiding. The roll was called with the following members present: Nina Kavich, William Gaines, Michelle Thornburg, Dean Graf, William Nuckolls, Terry Ellinger, Roger Thompson and Kathleen Smith. Also present was Executive Director, Annette Harmon. The meeting was held at the Board's office, 140 N. 8th Street, Suite 290, Lincoln, Nebraska.

Public Comment Period

One individual came forward and spoke to the Board during the Public Comment Period. R. David Hunter of Lincoln appeared to discuss the Arthur Andersen, LLP situation with Enron. Mr. Hunter presented the Board with a formal complaint, in accordance with its policies and procedures, against Arthur Andersen, LLP.

2. General

B. Approval of meeting agenda for January 18, 2002. Moved by Smith, seconded by Nuckolls, to approve the agenda for the January 18, 2002 meeting as published. On roll call vote, all members present voted aye. Motion number 1 carried.

C. Approval of the minutes of the December 4-5, 2001 Board meeting. Moved by Smith, seconded by Graf, to approve the minutes as written. On roll call vote, all members present voted aye. Motion number 2 carried.

3. Report of the Chair

A. Proposed Legislation on Fees. The Chair, Dean Graf and Annette Harmon met with several key aides for Senators Bruning and Landis yesterday, as well as Mike Lovelace with the Legislative Fiscal Office. A comprehensive packet with detailed financial information was compiled and is being provided to the Senators. An abbreviated version, to present with testimony at the hearing on January 22, 2002, is also being printed.

The Chair discussed the testimony she will be presenting and discussed possible questions that might be asked. NASBA's CEO, David Costello, from Nashville, Tennessee will be coming to support the bill and present testimony if necessary, as well as Craig Mills, Executive Director of Exams, from the AICPA.

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The members of the Board expressed approval and appreciation of the work that the Chair and the Executive Director put into this project, that it was above and beyond their normal duties, and unanimously congratulated both of them. It was noted that Member Kavich invested a great deal of time and many billable hours away from her practice in support of the legislative bill.

B. Report on January 9th Exam Conference. The Chair, Nina Kavich, reported on her attendance at NASBA's Examination Conference on January 9, 2002 in Atlanta, Georgia. The vote was 43 states for approval of the CBT contract, and 7 votes against the contract. The states that voted no were: Nebraska, Oklahoma, New York, California, Vermont, Michigan and Hawaii. It was reiterated that Nebraska's vote was not against computerization of the CPA exam, but rather against this particular contract and because of the lack of time for response and resolution of issues.

C. Report on Email Survey – Subsidizing Fees. The Chair also reported on an email survey that was conducted on a random basis with active permit holders. Out of 306 responses, 262 responded that they did not believe licensees' fees should subsidize the CPA examination fees paid to sit for the exam. Forty permit holders responded in the affirmative. These results will be reported in the Board's next newsletter.

4. Proposed Legislative Draft

The Board will finalize the proposed legislative draft that is a re-write of the Public Accountancy Act for the March board meeting.

5. Consent Agenda

Approval of Consent Agenda by Roll Call Vote. Moved by Nuckolls, seconded by Gaines, 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. Approval of November and December 2001 disbursements. The Board reviewed and approved the November and December 2001 disbursements.

C. Review of Board Budget Status Report. The Board reviewed the December 31, 2001 Budget Status Report.

D. Requests for Acceptance of Surrendered Certificates and Approval of Inactive-Retired Classification. There were no requests for this meeting.

E. Office Management Report. The Board reviewed a report on permits and registrations issued as of January 9, 2002. Prior year's statistics were also reviewed for comparison.

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6. Report of Continuing Education Committee

A. Ratification of staff program evaluations since last meeting. Moved by Gaines, with the Committee's recommendation, to approve the 578 courses that have been evaluated and approved by the staff since the last meeting, and to deny courses #01-702 "The BroadBand Revolution" and #01-1227 "How to Deal with Stress." A letter will be written to the permit holder on course #01-1226 for outside verification. On roll call vote, all members present voted aye. Motion number 4 carried.

B. Policy on College Course Credits for Reinstatement. Moved by Gaines, with the Committee's recommendation, to change the wording of the CPE Guidelines to reflect that a maximum of 40 hours of completed instruction, 40 hours of completed self study, 40 hours of a completed college course, and 40 hours of instruction of a completed college course are allowed. On roll call vote, all members present voted aye. Motion number 5 carried.

CLOSED MEETING

Closed Meeting. Moved by Smith, seconded by Thornburg, that the Board go into closed session at 10:18 a.m. for the purpose of enforcement, litigation and personnel issues. On roll call vote, all members present voted aye. Motion number 6 carried.

Return to Open Meeting. Moved by Smith, seconded by Ellinger, that the Board return to open session at 10:53 a.m. On roll call vote, all members present voted aye. Motion number 7 carried.

7. Report of Enforcement of Professional Conduct Committee

A. Determination of Probable Cause or Lack of Probable Cause. Moved by Smith, with the Committee's recommendation, to close the following complaints: #0102-002 subject to satisfaction of the Committee that records have been provided, and #0102-008, both for lack of probable cause. On roll call vote, all members present voted aye, except Member Ellinger who was momentarily out of the room. Motion number 8 carried.

B. Request for Agency Declaratory Order. None were presented for Board review at this time.

C. Report on Appeal Status of Decision Concerning Gerard Forget. The Board received the decision of Judge Colburn in the appeal of the Board's decision by Gerard Forget, wherein the Judge affirmed the Board's decision. Mr. Forget has subsequently appealed this decision to the Court of Appeals, and submitted an offer of "settlement" to the Board's Legal Counsel, Robert Gruit. It was the Board's determination to communicate with Mr. Forget's attorney that they are not interested in his offer.

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D. Report on Appeal Status of Decision Concerning Jeffrey Benne. The Board has received the decision of Judge Merritt in the appeal of the Board's decision by Jeffrey Benne. Judge Merritt has affirmed the Board's decision to revoke Mr. Benne's CPA certificate.

8. Report of Examination & Licensing Committee

A. Ratification of initial permits to practice issued; certificates issued. Moved by Graf, 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 9 carried.

B. Application(s) for Reinstatement to Active Permit. Moved by Graf, with the Committee's recommendation, to ratify the approval of the applications for Reinstatement to Active Permit. On roll call vote, all members present voted aye. Motion number 10 carried.

Moved by Gaines, with the CPE Committee's recommendation, to deny Kirby Marks' request for an extension of time to get his 120 hours of CPE to reinstate his permit in 2002. On roll call vote, all members present voted aye. Motion number 11 carried.

C. Interpretation of Shareholder Eligibility. Moved by Graf, with the Committee's recommendation, to adopt the following interpretation of when a shareholder becomes ineligible to be a shareholder: 1) If the shareholder is a CPA, the shareholder ceases to be eligible when he/she no longer has an active permit; 2) If the shareholder is a non-CPA, the shareholder becomes ineligible when the shares held violate the non-CPA ownership percentage provisions. After discussion, the Motion was withdrawn and the matter was referred back to the Committee.

D. Interpretation of When Permit Required for Out-of-State Practitioners. Moved by Graf, with the Committee's recommendation, to adopt the following interpretation of when a permit is required for out-of-state practitioners: 1) An out-of-state CPA doing work for Nebraska clients but who **never steps foot in Nebraska** is not required to be licensed in Nebraska; 2) An out-of-state CPA doing work for Nebraska clients **who does come to Nebraska** to perform work must be licensed in Nebraska. On roll call vote, all members present voted aye, except Member Gaines who voted nay. Motion number 12 carried.

Interpretation of "place of business" for residency purposes. Moved by Graf, with the Committee's recommendation, to adopt the interpretation that a "place of business" is defined/interpreted as the "location at which one carries on his/her" practice of public accountancy; and, for purposes of residency, an applicant must have an actual office location and be able to furnish proof of the office location. On roll call vote, all members present voted aye. Motion number 13 carried.

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E. Application for Certificate – Nonresident/non-working applicant. Moved by Graf, with the Committee's recommendation, to inform the applicant that he does not qualify for a CPA certificate in Nebraska because he does not meet the residency requirement for a certificate by reciprocity: he is not a resident of Nebraska, is not regularly employed here, and does not have a place of business. On roll call vote, all members present voted aye. Motion number 14 carried.

F. Review of Applicant Experience. Moved by Graf, with the Committee's recommendation, that the number of hours allowable for experience would be the applicant's hours from June 2000 to June 2001 that were billable hours in the CPA firm. On roll call vote, Member Graf voted aye, and all other members present voted nay. Motion number 15 failed.

Moved by Ellinger, seconded by Smith, to change current policy to not accept the experience forms unless there is an application for an initial permit to practice, and that the forms be changed accordingly. On roll call vote, all members present voted aye, except Member Graf who voted nay. Motion number 16 carried.

Member Thompson left the meeting at 1:00 p.m.

G. Exam Contract Issues. Nina Kavich, Chair, has previously reported on the exam contract and the NASBA Exam Conference.

H. Approval of Grades for November 2001 CPA Exam. Moved by Graf, with the Committee's recommendation, to approve the advisory grades for the November 2001 CPA Exam. On roll call vote, all members present voted aye. Member Thompson was absent. Motion number 17 carried.

9. Report of the Quality Enhancement Program (QEP)

A. Report of the Committee / Recommendations. QEP Chair Michelle Thornburg gave a report of the Committee's conference call held on December 12, 2001. The QEP Committee agreed with the current process of evaluating requests for exemption, although the cover letter could clarify information regarding the letter of comments and acceptance/denial of the request for exemption. The Committee also discussed what should be done with peer reviewers who are consistently doing poor peer reviews, and recommended staff contact the Nevada Society of CPAs and the AICPA as to what the proper procedures would be regarding the peer reviewer.

10. New Business

A. Future Meeting Dates. The Board will next meet on March 24-25, May 3, July 7-8, September 8-9, 2002 (in Kearney) and November 18-19, 2002.

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B. NASBA.

1. NASBA CPE Conference. Moved by Smith, seconded by Nuckolls, to approve the expenses that are not reimbursed by NASBA (as a CPE Committee member) for the Executive Director to attend the CPE Conference in March 3-5, 2002 in Destin, Florida. On roll call vote, all members present voted aye. Member Thompson was absent. Motion number 18 carried.

2. Nominee for NASBA Chair-Elect. The Board discussed NASBA's request for nominations for Vice Chair for the 2002-2003 year. Moved by Smith, seconded by Nuckolls, to send NASBA a letter of recommendation to nominate David Vaudt for Vice Chair. On roll call vote, all members present voted aye. Member Thompson was absent. Motion number 19 carried.

C. Resolution for Former Board Members. Moved by Smith, seconded by Thornburg, to adopt resolutions for former Board members Richard A. Hoiekvam and George Klein. On roll call vote, all members present voted aye. Member Thompson was absent. Motion number 20 carried.

11. Adjournment

It was moved by Smith, seconded by Gaines, that the Board adjourn at 3:12 p.m. On roll call vote, all members present voted aye. Motion number 21 carried.

Submitted by,

Michelle R. Thornburg, CPA
Secretary