

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY  
140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes  
March 16, 2006

*Prior to the Board meeting, a public hearing was held regarding proposed changes to Title 288 Rules Chapter 11.*

**DRAFT: Minutes of the meeting are not final until approved at the May 1, 2006 Board meeting.**

**1. General**

- A. Call to Order and Roll Call.** The Nebraska Board of Public Accountancy (Board) was called to order at 9:45 a.m. on Thursday, March 16, 2006 with Chair H. Dean Graf, CPA presiding. The roll was called with the following members present: H. Dean Graf, William Nuckolls, Jim Titus, Anne Fuhrman, Doug Skiles, Kate King Wu, Tom Obrist, and Richard Zacharia. Also present were Executive Director Dan Sweetwood, Staff members Kelly Ebert and Jo Lowe, and Board Intern Nicole Rowedder. The meeting was held at the Board Office at 140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska.
- B. Approval of Meeting Agenda for March 16, 2006.** Moved by Nuckolls, seconded by King Wu, to approve the agenda for the March 16, 2006 meeting. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Zacharia voted aye. Member Titus abstained. Motion #1 carried.
- C. Approval of Minutes from January 6, 2006.** Moved by Obrist, seconded by Skiles, to approve the Board minutes from the January 6, 2006 meeting. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #2 carried.

**2. Public Comment Period (15 minute period)**

No members of the public were present.

**3. Consent Agenda**

- A. Published Notice of Meeting.** Moved by Obrist, seconded by King Wu, to approve the consent agenda. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #3 carried.
- B. Approval of Disbursements.** Board Secretary Nuckolls reviewed the disbursement report prepared by staff. The Board complimented the staff on the financial reports. Disbursements for December 2005 and January 2006 were approved.
- C. Review of Board Budget Status Report.** The Budget Status Report was provided, and Executive Director Sweetwood reported on the current FY 06 budget.
- D. Office Management Report.** The Office Management Report was provided.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY  
140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes  
March 16, 2006

**4. Report of the Chair**

- A. Report of the Chair.** Chair Graf gave the report. He suggested that Board members consider running for NASBA Regional Director. ED Sweetwood reported that Mr. Kent Smoll, CPA, from Kansas is the only candidate for NASBA Regional Director at this time.
- B. Review of Board Calendar.** After discussion, the November Board meeting was set for November 16-17, 2006. If the November meeting will be two days, the dates will be November 16-17, 2006. If the November meeting is one day the date will be Friday, November 17, 2006. Staff will update the Board calendar.
- C. Report on To Do List.** There was no report at this time.
- D. Other Miscellaneous Items.** There were no miscellaneous items at this time.

**Closed Session**

**Closed Session.** Moved by Obrist, seconded by Titus, that the Board go into closed session at 10:13 a.m., for the purpose of discussing enforcement cases. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #4 carried.

**Return to Open Session.** Moved by Zacharia, seconded by Titus, that the Board return to open session at 11:21 a.m. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #5 carried.

**5. Report of Enforcement of Professional Conduct Committee**

- A. Rodney Zwygart Appeal Update.** Executive Director Sweetwood reported that the case had been appealed to the Nebraska Court of Appeals. Board Attorney Robert Gruit is preparing to file a brief in response to the brief filed by Zwygart's attorney. No further update at this time.
- B. Open Case /LMCO Update.** Chair Graf reviewed the open cases. Motion out of Committee to recommend case #06-04 move to formal hearing and to direct Board Attorney, Mr. Robert Gruit, to prepare and file a complaint against the active permit holder for alleged violation of:
- Public Accountancy Act 1-137 (2) Dishonesty, fraud, or gross negligence in the practice of public accountancy (5) Conviction of a felony under the laws of any state or of the United States.
  - Title 288 Rules and Regulations, Chapter 5 007.01 Acts discreditable. A licensee shall not commit acts that reflect adversely on his fitness to engage in the practice of public accountancy.

On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Zacharia voted aye. Member Titus was absent. Motion #6 carried.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY  
140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes  
March 16, 2006

- C. Recommended Closure of Enforcement Cases.** Motion out of Committee to close the following complaint cases:
- 04-14** Litigation identified on renewal application form: The Enforcement Committee met and reviewed the staff report. Following discussion, the Committee concluded that because it was against a Missouri CPA/Firm, and because the case was not pursued per complaint but reported on the firm application, therefore, that the information on the case should be provided to the Missouri Board and allow them to pursue the case in their state if they so choose.
- 05-10** Records Issue: The ED telephoned the CPA and confirmed the letter requested by the complainant could be sent. The complainant was then contacted and was told a copy of the letter to the IRS was being provided. He was satisfied and just concerned the CPA would not respond to him. He thanked the Board for its assistance in the matter.
- 05-11** Inactive Registrant listed as CPA in newspaper advertisement: Received reply stating that he was aware of the law and rules for inactive registrants. However, the newspaper copy editors changed what he had originally written for the paid advertisement. He will try to make sure it does not happen again.
- 06-01** CPA Firm offering investment services: CPA sent copies of advertisements in 2005 from two separate CPA firms that are affiliated in his area with concerns they could mislead the public. The Enforcement Committee waited until guidelines for firms were developed and approved by the Board on January 6, 2006 at the meeting for guidance on this issue. Based on the guidelines no further action will be taken.
- 06-02** Accountants use of CPA language on report: Received response letter from non-CPA stressing he was not a CPA and not attempting to hold out as a CPA. He believed the language utilized in his financial statements was not in violation of the current Public Accountancy Act. The EC agreed that no violation occurred.
- 9798012 and 13** CPA Firm and CPA did not practice appropriate standards of care and training for staff. (Under LMCO since 1997.) Case reviewed by Enforcement Committee (EC). Based on information provided including a ruling in the CPA firm's favor by a mediator on a discovery issue, the age of the suit, and the relatively small settlement, the EC recommended that the case be dismissed before the Board.
- On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #7 carried
- D. Report on To Do List.** There was no report at this time.
- E. Other Miscellaneous Items.** There were no miscellaneous items at this time.

**6. Report of Continuing Professional Education (CPE) Committee**

- A. Report of the Committee.** Committee Chair Nuckolls presented the report. The Committee reviewed a total of 166 courses for 2005 and 149 courses for 2006 from December 15, 2006 to February 24, 2006. The Committee forwarded the reinstatement applications to the Licensing Committee for approval. The

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY  
140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes  
March 16, 2006

Committee reviewed CPE sponsor applications. Motion out of Committee to approve the Nebraska Society of CPAs, CPE think.com, and JPMorgan Asset Management as CPE sponsors. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Zacharia voted aye. Member Titus was absent. Motion #9 carried.

The Committee reviewed the list of requests for CPE extensions and the list of deficiencies. Staff updated the Committee on the progress of the 2006 CPE audit. The Committee reviewed CPE waiver requests. Motion out of Committee to recommend Board approval for Marjorie Harberg to utilize her 2004 reinstatement CPE hours to renew her permit in June 2006 based on her circumstances. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #10 carried.

Motion out of Committee for the Board to purchase a table for the "Whistleblowers Journey" as proposed by Creighton University Beta Alpha Psi, for Board members, staff, and others to attend on April 21, 2006, 8-10 a.m. at the Qwest Center in Omaha. The Committee concluded it would be very beneficial and appropriate for the Board to be represented and attend the event. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Zacharia voted aye. Member Titus was absent. Motion #11 carried.

- B. Ratification/Denial of Staff Program Qualification Evaluations.** Motion out of Committee to approve 165 courses and to deny 1 course (#05-979) for 2005 and to approve 149 courses for 2006 from December 15, 2006 to February 24, 2006. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #8 carried.
- C. Report on To Do list.** The To Dos are listed in the Committee Report. Staff will continue to work on and schedule a CPE ethics roundtable this summer to include Nebraska Society of CPA's staff, instructors, and Committee members. Discussion will focus on the current status of ethics instruction within Nebraska and what the future holds for ethics instruction.
- D. Other Miscellaneous Items.** There was no report at this time.

#### 7. Report of Education & Exam (E&E) Committee

- A. Report of the Committee.** Committee Chair Skiles gave the report. The Committee continues to receive requests for exam extensions. CPAES staff reaffirmed that extension requests have generally not been allowed by other states. Staff received a certificate application with no social security number and a dependent visa. Staff requested the Attorney General's office for assistance with defining "resident." The result is that there is no law in Nebraska that clearly defines resident. The Attorney General's office recommended that a resident could be defined as one who holds a valid Nebraska drivers license, pays taxes, and/or resides in the state. Motion out of Committee to allow approval of a certificate application with no social security number but meeting the "resident"

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY  
140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes  
**March 16, 2006**

definition. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #12 carried.

The Committee affirmed that the Board by law and rule does not have the ability to make subject area educational requirement course substitutions. Nebraska has two former Board members on the AICPA Board of Examiners (BOE). BOE oversight appears to be an issue and will be monitored by the Board. The upcoming NASBA Regional Meetings will provide an update to Board members on CBT issues. The Committee would like to have a direct update by members of the BOE if possible at the next E & E Committee meeting. The Committee generally remains satisfied with the CBT and continues to monitor:

- 1.) The simulation addition and implementation for the CPA/ CBT and scoring issues;
- 2.) Exam issue information from the AICPA, NASBA and states regarding the CBT;
- 3.) Exam fee increases for 2007.

Board Chair Graf and Board Staff visited the Grand Island Prometric testing center which recently began offering the CPA CBT. Chair Skiles reported feedback from a member of his office staff who tested at the site. Generally, the site appeared to be operated well. Staff will submit a site visit report to NASBA. Board Administrator Jo Lowe has presented Board information at Beta Alpha Psi meetings at UN-O, UN-L, and Creighton University with favorable responses.

- B. Exam Score Ratification.** The Board office had not received the January – February 2006 Exam scores by the Board meeting date. The Committee received a communication from AICPA on expected exam score release dates.
- C. Report on To Do List.** There was no report at this time.
- D. Other Miscellaneous Items.** There were no miscellaneous items at this time.

### **8. Report of the Legislative Committee**

- A. Report on Legislation.** Committee Chair Graf gave the report. The Legislative Committee and Dan Vodvarka, President of the Nebraska Society of CPAs, will meet on April 3, 2006 to review the proposed temporary practice and “character and fitness standards” language developed by the committee to amend Title 288 Board Rules and Regulations. The goal is to present to Board members drafts of the proposals for discussion at the May meeting.
- B. Report on To Do List.** Meeting will continue with the NSCPAs to create and present drafts on temporary practice and good moral character language.
- C. Other Miscellaneous Items.** There were no miscellaneous items at this time.

### **9. Report of Quality Enhancement Program (QEP) Committee**

- A. Report of the Committee.** Committee Chair Fuhrman gave the report. She reported that several QEP reviewer applications had been received, and the Committee is preparing for the start of QEP. Board members were provided Alert

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY  
140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes  
March 16, 2006

- #93 from the AICPA regarding state board's request of information from firms following a PCAOB report on that firm, and responses to Alert #93 from NASBA. ED Sweetwood reminded the Board that at this time the Board is receiving only the public information reports from the PCAOB and would only pursue the inspection reports further if a PCOAB Rule 4004 notification was received or an enforcement action was initiated by the PCAOB.
- B. **Report on To Do List.** There was no report at this time.
  - C. **Other Miscellaneous Items.** There were no miscellaneous items at this time.

**10. Report of the Licensing Committee**

- A. **Report of the Committee.** Committee Chair Titus gave the report. The Firm Guidelines were mailed to all registered CPA firms, and Committee members provided staff with suggestions for future firm advertising questions. The Committee reviewed the application requirements for reciprocal applicants. Although the CPA may have been practicing in another state for seven years, they may be unable to get a Nebraska reciprocal certificate because they do not have 150 semester hours. The Committee recommended that the law related to reciprocal certificates be reviewed by the Legislative Committee. The Committee reviewed the initial firm and all renewal applications for 2006.
- B. **Chapter 11 Rule Hearing Discussion.** The Board discussed and reviewed proposed changes to Title 288 Chapter 11, including testimony from the public hearing. Moved by Zacharia, seconded by Skiles to approve the proposed Title 288 Rules Chapter 11 language, and to direct staff to submit the Rule change to the Attorney General's office and Governor's policy research office for review and approval. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #15 carried. ED Sweetwood thanked the current members of the Licensing Committee (Members Titus, Zacharia, Fuhrman) for their time and hard work on the proposed rule changes over the last two years.
- C. **Public Hearing to Return Surrendered Certificate to Good Standing:**
  - 1.) **Robert Emswiler III.** At 1:40 p.m., the hearing for Robert Emswiler III commenced with exhibits entered into the record. Mr. Emswiler was present to answer questions. Moved by Zacharia, seconded by King Wu, to return Emswiler's CPA certificate to Good Standing, with a \$125 administrative fee for staff processing. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #13 carried.
  - 2.) **Dennis M. Nelson.** At 1:57 p.m., the hearing for Dennis M. Nelson commenced with exhibits entered into the record. Mr. Nelson was not present to answer questions. However, a letter of explanation was provided to the Board. Moved by Zacharia, seconded by Fuhrman, to return Nelson's CPA certificate to Good Standing, with a \$125 administrative fee for staff processing. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #14 carried.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY  
140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes

March 16, 2006

- D. Ratification of initial permits to practice issued, certificates issued, firm permits.** Motion out of Committee to approve the permits to practice, certificates, and firm permits, issued between January 7, 2006 and March 14, 2006. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #16 carried.
- E. Reinstatements to Active Permit, Inactive Retired Affidavits, Surrendered Certificates.** Motion out of Committee to approve the reinstatements and surrendered certificates received between January 7, 2006 and March 14, 2006:
- |                           |                                      |
|---------------------------|--------------------------------------|
| Reinstatements:           | Helen K. Durst, Omaha NE             |
|                           | Debra L. Kuosman, Omaha NE           |
|                           | MaLaine Mae Strobe, O’Neill NE       |
| Surrendered Certificates: | Michelle Schmittel, Fayetteville, NC |
|                           | Ellen Thompson, Lincoln NE           |
- On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #17 carried.
- F. Firm Names Requests.** The following firm names were approved by the Committee on February 28, 2006.
- Robbins Consulting** – This is the first sole proprietorship using other than the individual CPA’s name as the firm name.
- Motion out of Committee to approve the firm names as approved at the February 28, 2006 Committee meeting. An approval letter will be sent to firms. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #18 carried.
- G. Report on To Do List.** There was no report at this time.
- H. Other Miscellaneous Items.** There were no miscellaneous items at this time.

### 11. Report of Executive Director

- A. NASBA Executive Directors Conference report.** Executive Director Sweetwood reported on the NASBA Executive Directors Conference held February 13-16, 2006. Written reports from the ED and Jo Lowe were provided to the Board. Some concern about the scoring for the CBT and the success of the simulations for the exam were expressed at the conference. Temporary practice is a national issue and will receive some attention at the NASBA regional meeting. Disaster recovery or business continuity planning was brought to State Board’s attention and plan templates were provided. The ED will be joining with other Apothecary state agencies to begin a business continuity plan draft for the building. Both the ED and Jo Lowe, thanked the Board for the opportunity to attend the conference. ED Sweetwood responded to questions posed by Vice Chair Titus in an email after review of the conference report.
- B. Staffing and General Office Issues.** Executive Director Sweetwood met with Neb.gov’s representatives who reported that the JOKEL system had some unanticipated problems, and they are unable to give an assurance that the system

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY  
140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska

Minutes  
**March 16, 2006**

would be ready in time for online licensing this year. They will attempt to have the system ready for CPE reporting in December 2006 while developing the JOKEL system this year. Executive Director Sweetwood will request that NASBA information technology staff provide a third party review of the system and its progress for the Board. IT Chair Skiles requested a monthly update from Nebraska.gov on the progress. Several Board members expressed disappointment in the progress of the project and requested written updates on future progress. It was suggested staff should pursue other options if necessary. The Board office is under audit by the Nebraska State Auditors office. Some expenses have been incurred by IMS to provide the auditors with necessary reports from the FoxPro system. It has been the goal of staff to be responsive and open minded during the audit as this is the first audit for current staff, and to respond, if necessary, to any recommendations from the audit. The exit interview is scheduled for March 24, 2006 with Board Chair Graf and Secretary Nuckolls planning to attend with staff.

- C. **Report on To Do List.** There was no report at this time.
- D. **Other Miscellaneous Items.** There were no additional miscellaneous items.

**12. New Business**

- A. **National Association of State Boards of Accountancy (NASBA) Items.**
  - 1.) **NASBA Request from the Nominating Committee.** ED Sweetwood reported that former Board member Kathy Smith appreciated the Board's nomination for NASBA Vice Chair. The Board requested that Smith attend a future Board meeting to share ideas and thoughts about the direction of NASBA. The Board was then advised that former Board member Nina Kavich was interested in serving another term as a member of NASBA's Nominating Committee. Moved by King Wu, seconded by Skiles to support Kavich for NASBA Nominating Committee. By a show of hands, all Board members voted aye. Motion #19 carried.
  - 2.) **NASBA FYIs.** Various articles relating to NASBA were noted.
- B. **Other Miscellaneous Items.** Various articles were noted related to the CPA profession as provided by staff.

**13. Adjournment**

Moved by Zacharia, seconded by Fuhrman, to adjourn the meeting at 3:05 p.m. on Thursday, March 16, 2006. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus and Zacharia voted aye. Motion #20 carried.

Respectfully submitted by,

William C. Nuckolls  
Board Secretary