

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

Minutes
March 20, 2009

Draft Minutes. Minutes are not approved until the next Board meeting.

1. General

- A. Call to Order and Roll Call.** The Nebraska Board of Public Accountancy (Board) was called to order at 8:35 a.m. on Friday, March 20, 2009 with Chair Jim Titus, presiding. The roll was called with the following members present: Jim Titus, Anne Fuhrman, Doug Skiles, Michael Wassinger, Richard Zacharia, Jim Rieker, and Tom Obrist. Member Kate King-Wu was absent. Also present were Executive Director Dan Sweetwood and Staff member Kelly Ebert. Staff member Jo Lowe was absent. The meeting was held at the Board Office at 140 N. 8th Street, Suite 290, Lincoln, Nebraska. Chair Titus noted the location of the notebook containing the Public Open Meeting Act, along with it being posted on the wall, and asked if anyone present needed an agenda or had any questions regarding the law.
- B. Approval of Meeting Agenda for March 20, 2009.** Moved by Obrist and seconded by Zacharia to approve the agenda for the March 20, 2009 meeting. On a roll call vote, Members Titus, Fuhrman, Obrist, Skiles, Rieker, Wassinger, and Zacharia voted aye. Member King Wu was absent. Motion #1 carried.
- C. Approval of Minutes from January 6, 2009.** Moved by Obrist, seconded by Wassinger, to approve the Board minutes from the January 6, 2009 meeting. On a roll call vote, Members Titus, Fuhrman, Skiles, Rieker, Wassinger, Obrist and Zacharia voted aye. Member King Wu was absent. Motion #2 carried.

2. Public Comment Period (15 minute period)

Mr. Dan Vodvarka, President of the Nebraska Society of CPAs, appeared and thanked the members of the CPE Committee for their review and approval of 85 Society sponsored courses for 2009. He also thanked the Board for working closely with the Society on the successful passage of LB 31, the Board's Mobility Bill. He noted the Bill was passed within 36 days that included a late amendment offered by the Nebraska Independent Accountants. He also noted how New York is responding to mobility by enacting temporary practice provisions and offered an article for the Board's review.

Ms. Marianne Mickelson, a member of the Iowa Board of Accountancy and a member of the NASBA Nominating Committee representing the Central Region requested to speak to the Board via telephone conference regarding the nomination process. Ms. Mickelson pointed out that the Central Regional Director position will be available this coming year. She will be encouraging members from the Central Region to submit candidates for the position. She pointed out the Central Region itself does not elect the member but only recommends persons for the position to the Nominating Committee. The Nominating Committee will then select the person to represent the Central Region. She concluded by offering her assistance to any members who would be interested in the position or have any questions regarding the nomination process. Executive Director Sweetwood noted the office had received only the

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nomination of Mr. Telford A. Lodden, CPA, the current Chair of the Iowa Board, for Regional Director.

Mr. Ken Brauer, representing the Nebraska Independent Accountants (NIA), acknowledged the Board for working with their lobbyist on the amendment to LB 31 clarifying the use of the term "EA" (enrolled agents). He offered assistance on behalf of the NIA to the Board in the creation of the regulations for Mobility.

(Member King Wu arrived at 9:05am)

Item 10. B Public Hearing for Patricia Blubaugh and Deanna Platter per Requests to Return Certificate to Good Standing (*the hearings were recorded*). Hearing Officer Jim Titus opened the hearing. Ms. Blubaugh was present representing herself. Exhibits were offered into the record by Executive Director Sweetwood on behalf of the Board. Blubaugh did not object to the exhibits and indicated she currently holds an Oklahoma Certificate in good standing and requested her Nebraska Certificate back so she could obtain her inactive registration. The exhibits were received by the Chair.

Mr. Titus opened the hearing for Deanne Platter. She was not present or represented by counsel; however, did provide letters of explanation to the Board. Exhibits for Deanne Platter were offered into the record by Executive Director Sweetwood on behalf of the Board and were received by the Chair. Platter requested reinstatement of her Certificate so she could obtain her license in the State of Oregon. The public hearing was then closed.

Moved by Zacharia, seconded by Skiles, to reinstate the certificate of Patricia Blubaugh with a \$125 administrative fee. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Zacharia, Wassinger, and Obrist voted aye. Motion #3 carried.

Moved by Zacharia, seconded by Obrist, to reinstate the certificate of Deanna Platter with a \$125 administrative fee. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia and Obrist voted aye. Motion #4 carried.

Item 7. A Ms. Patricia Hartman, Director of CPA Examination Services & NCD, and Ms. Nan Buchanan, Nebraska CPAES Coordinator, were present to discuss Certified Public Accountant Examination Services (CPAES) proposal to place Nebraska initial and re-take applications online via the CPAES website. Ms. Hartman demonstrated the CPAES website portal for Missouri and indicated the success of candidates using their online application system. She indicated young people today expect to be provided online services and will adapt quickly to use the online applications if approved. She pointed out that Nebraska is the only jurisdiction left that requires a paper application for re-take candidates and that 11 CPAES jurisdictions are prepared to go live online soon and join Missouri. She added there would be no additional costs to candidates who choose to submit online. Member Skiles pointed out a 2-4 day paper application delay for Western Nebraska candidates due to the postal service. Hartman covered

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the various security protocols that CPAES must apply to offer the applications online. She indicated a “hash” of candidate information is completed to protect those applicants who apply to sit for the examination via the website. ED Sweetwood requested the protocols in writing and indicated a cursory search of the Public Accountancy Act and Board regulations appeared to not prevent online applications but recommended the matter be reviewed by the attorney general’s office. Ms. Hartman also reviewed the CBT Steering Group quarterly report with the Board.

Moved by Skiles, seconded by Wassinger, to approve CPAES to offer Nebraska candidates the ability to submit initial applications to sit for the CPA Examination online without providing a notarized signature subject to review by the Nebraska Attorney General’s Office. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia and Obrist voted aye. Motion #14 carried.

Moved by Skiles, seconded by King Wu, to approve CPAES to offer Nebraska candidates the ability to submit re-take applications to sit for the CPA Examination online without providing a notarized signature subject to review by the Nebraska Attorney General’s Office. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia and Obrist voted aye. Motion #15 carried.

3. Consent Agenda

- A. Published Notice of Meeting.** Moved by Rieker, seconded by Obrist, to approve the consent agenda. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia and Obrist voted aye. Motion #5 carried.
- B. Approval of Disbursements.** Board Secretary Fuhrman reviewed the disbursements for December 2008, January and February of 2009. She indicated the disbursements appeared to be in order and discussed some of her validation procedures.
- C. Review of Board Budget Status Report.** The Budget Status Report was provided.
- D. Office Management Report.** The Office Management Report was provided.

4. Report of the Chair

- A. Report of the Chair.** Chair Titus gave the report.
- B. Board updated policies for 2008.** Chair Titus indicated staff had prepared an annual update of Board policies from 2008 for distribution. The policies are included within the Board Policy Manual to assist Board members in making future decisions. The Policy Manual is located in the Board Administrator’s office.
- C. Nomination for NASBA Regional Director.** Chair Titus discussed the process for submitting names for the position of NASBA Regional Director. After discussion of the possible future interest of Board members, it was decided that Mr. Lodden would be an excellent candidate for the Central Region. Moved by Chair Titus, seconded by Obrist, to support Mr. Lodden for the position of NASBA Central Regional Director.

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Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia and Obrist voted aye. Motion #6 carried.

- D. Review Board Calendar.** After discussion, if it was determined the May Board meeting would be one day, Monday, May 4, 2009.
- E. Report on To Do List.** There was no report at this time.

Closed Session

Closed Session. Moved by King Wu, seconded by Obrist, that the Board go into closed session at 10:18 a.m., for the purpose of updating the Board about current open enforcement cases and to discuss disciplinary matters. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia and Obrist voted aye. Motion #7 carried. Chair Titus restated that the purpose for the closed session was to update the Board about current open enforcement cases and to discuss disciplinary matters.

Return to Open Session. Moved by Rieker, seconded by Obrist, that the Board return to open session at 11:04 a.m. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia and Obrist voted aye. Motion #8 carried.

5. Report of Enforcement of Professional Conduct Committee

- A. Open Case/LMCO Update.** Committee Chair Zacharia reviewed the open cases.

Formal Complaints Recommended and Motion out of Committee:

Upon a finding of probable cause the Enforcement Committee recommends a formal complaint be filed against the CPA in case #06-05 by the Board Attorney for alleged violation of:

- *PAA Section 137(2) Dishonesty, fraud or gross negligence in the practice of public accountancy;*
- *Section 137(4) Violation of a rule of professional conduct adopted and promulgated by the Board under the authority granted by the act;*
- *Title 288 Rules of Professional Conduct Chapter 5.002 Independence; and Title 288 Rules of Professional Conduct Chapter 5.007 Acts Discreditable*

Upon a finding of probable cause the Enforcement Committee recommends a formal complaint be filed against the CPA in case #08-09 by the Board Attorney for alleged violation of:

- *Section 137(4) Violation of a rule of professional conduct adopted and promulgated by the Board under the authority granted by the act;*
- *Title 288 Rules of Professional Conduct Chapter 5.002 Competence; and Rules of Professional Conduct Chapter 5.007.05 Communications*

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On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia, and Obrist voted aye. Motion #9 carried.

Moved by Zacharia, seconded by Obrist that due to a change in circumstances the Board Attorney file a formal complaint against the CPA in case #08-08 for alleged violation of:

- *Section 137(2) Dishonesty, fraud, or gross negligence in the practice of public accountancy*
- *Section 137(4) Violation of a rule of professional conduct adopted and promulgated by the board under the authority granted by the act*
- *Section 137(5) Conviction of a felony under the laws of any state or the United States*
- *Section 137(6) Conviction of any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States*
- *Title 288 Rules of Professional Conduct Chapter 5.007 Acts Discreditable*

On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia and Obrist voted aye. Motion #20 carried.

- B. Recommended Closure of Enforcement Cases.** Motion out of Committee to recommend that the Board close cases:
- # 06-08- CPA firm was involved in civil litigation regarding tax advice. Jury trial found in favor of the CPA firm.
- #08-07- CPA firm was accused of not following auditing standards through improper communication with client that could have impaired the independence of the CPA firm during the engagement. The Committee, after review of the matter, requested the matter be dismissed.
- On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia, and Obrist voted aye. Motion #10 carried.
- C. Report on To Do List.** The Board Attorney was requested to discuss the use of a hearing officer with the Attorney General's office in Board cases that could be complicated and require several days of testimony.

6. Report of Continuing Professional Education (CPE) Committee

A. Report of the Committee. Committee Chair Zacharia gave the report. The Committee reviewed a total of 114 courses from December 24, 2008 to March 6, 2009, with 114 approved and no courses denied. The Committee reviewed the CPE sponsor applications for the Nebraska Society of CPAs and Merrill Lynch. The Committee reviewed the staff evaluation of reinstatement applications and referred the list to the Licensing Committee. Mr. Gregory J. Detty requested a waiver of the reinstatement

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requirement based on financial and other difficulties. Motion out Committee to approve Greg Detty's waiver request which includes 2009 hours to meet the reinstatement requirement. On a roll call vote, Members Titus, Fuhrman, Skiles, Obrist, Rieker, Wassinger, and Zacharia voted aye. King Wu voted nay. Motion #13 carried. Individuals with insufficient CPE hours for permit renewal were provided. The Committee is also reviewing the possibility of sending letters to individuals that have requested extension for consecutive renewal periods. The intent of the letter would be to discourage this practice and return them to within their two year reporting period as intended in the Public Accountancy Act. Staff updated the Committee on the 2009 CPE Audit process. The CPE Rules and Guidelines will be reviewed this year at Mahoney State Park, as they did last year, with any other staff recommendations for revisions provided to the Committee.

- B. Ratification/Denial of Staff Program Qualification Evaluations.** Motion out of Committee to approve 114 courses from December 24, 2008 to March 6, 2009. On a roll call vote, Members Titus, Fuhrman, Skiles, Obrist, King Wu, Rieker, Wassinger, and Zacharia voted aye. Motion #11 carried.
- C. Ratification of CPE Sponsor.** Motion out of Committee to approve Nebraska Society of CPAs and Merrill Lynch as CPE sponsors. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Obrist, Rieker, Wassinger, and Zacharia voted aye. Motion #12 carried.
- D. Report on To Do list.** The To Dos are listed in the Committee Report.

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

- A. Report of the Committee.** Committee Chair Skiles gave the report. Review of the Board's survey of successful candidates continues. Some of the survey questions are under review and staff will contact Ms. Hartman regarding problems that CPAES can assist. The Committee discussed the 2007 Exam Performance Report provided by NASBA that indicated Nebraska candidates for the CPA Examination have moved to #2 overall compared to other states in successful passage. It was noted Nebraska educators should be applauded for their efforts. Staff reviewed the recent BOE Conference call and it was noted that BOE Chair Ms. Colleen Conrad should be acknowledged for her efforts on keeping Board's apprised of BOE activity. Member King Wu will attempt to keep the Board apprised of the IFRS issues with the exam. The Committees recent suggestions to the NASBA CLEC Committee were presented to Prometric with no success due to legal issues. The Committee reported on their two year project regarding review of Board regulations within Chapter 9, the education requirement grid. It was noted that due to the implementation of the 4/10 legislation in 2007 the vast majority of reciprocal candidates do not have to meet the requirements within Chapter 9 as before. Concern was raised on how any changes to current education requirements could affect the current successful passage rate of Nebraska candidates. The Board's Education Advisory Committee (EAC) was consulted during the project and provided input through Committee surveys regarding current education

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requirements. The majority concluded that the current requirements are favorable. They suggested that some flexibility on courses should be reviewed. Based on the EAC recommendations the Committee reviewed the required course in Quantitative Analysis that has been troublesome in the past for candidates to meet the 150 hour requirement. The Committee concluded additional flexibility should be allowed for meeting requirements for approval of the subject area in Quantitative Analysis. Motion out of Committee to allow the use of the “25% by content and grade” letter to meet the Quantitative Analysis in Business subject area requirement. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Obrist, Rieker, Wassinger, and Zacharia voted aye. Motion #16 carried. ED Sweetwood indicated the Board’s renewal contract with CPAES will be reviewed and presented to the Committee at their next meeting.

- B. Approval of CPA Exam Scores.** No CPA exam scores were available at this time.
- C. Report on To Do List.** There was no report at this time.

8. Report of the Legislative Committee

- A. Report on Legislation.** Chair Titus gave the report. He reported the successful passage and signing of LB 31, the Mobility Bill, by Governor Dave Heineman. Work still needs to be completed within Board regulations with drafts being prepared by staff and Board Attorney Gritmit to be reviewed by the Committee. Chair Titus offered that Mr. Brauer be offered to join the Mobility Work Group to provide input. ED Sweetwood noted the affect LB 403 could have on the Board if passed into law.

9. Report of Quality Enhancement Program (QEP) Committee

- A. Report of the Committee.** Committee Chair Fuhrman reported that she had no report. She updated the Board with the dates for the QEP reviews and reminded Board members that we are seeking reviewers. The Board office received several applications as a result of the QEP reviewer application tear out page in the annual letter.
- B. Report on To Do List.** There was no report at this time.

10. Report of the Licensing Committee

- A. Report of the Committee.** Chair Obrist gave the report. He reported the Committee had reviewed a response letter regarding the name change of Virchow Krause. The name change was approved. The use of the term “consulting” within the name request for JJ Heying Consulting LLC was approved by the Committee. The Committee discussed the requirements to meet the Board’s experience requirement based on an application requiring verification by the Indiana State Board of Accountancy. As before, the Committee will review on a case by case basis. The Committee discussed the policy on applications before the Board. Motion out of Committee that the Board adopt the following policy regarding Board applications:

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“Initial and renewal applications submitted to the Board will remain confidential and not public records until completion of the licensure process. Board applications have disclosure statements which are investigatory in nature until the permit is either issued or denied. The Board will handle open records requests on a case by case basis. See Nebraska Attorney Generals’ Opinion #00037, October 20, 2000.”

On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Obrist, Rieker, Wassinger, and Zacharia voted aye. Motion #19 carried.

The Committee also discussed future action against those Inactive Registrants that have not renewed their registration with the Board for three years. Currently, the Board takes action against active permit holders who have not renewed after three years by revocation proceedings. Staff was directed to gather further information and possibly work with the Nebraska Society in the attempt to notify those Inactive Registrants of the Board’s possible future plans. The Committee also reviewed a firm’s request regarding use of the Board’s disclosure forms. The firm was instructed to make a reasonable effort in contacting those clients beginning with the Board policy in July of 2006. The Committee discussed the Litigation Monitoring Consent Order (LMCO) project. The LMCO’s currently used to monitor civil action are under review by Board Attorney Gritmit. Staff has gathered information for the project.

- B. Hearing for Patricia Blubaugh and Deanne Platter per Requests to Return Certificate to Good Standing at 9:00 a.m.** See Public Comment Period above.
- C. 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 6, 2009 and March 17, 2009. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia and Obrist voted aye. Motion #17 carried.
- D. Reinstatements to Active Permit, Inactive Retired Affidavits, Surrendered Certificates.** Motion out of Committee to approve the reinstatements, inactive - retired affidavits, and surrendered certificates received between January 6, 2009 and March 17, 2009.

Reinstatements: Sandra Ellis
James Heying
Gregory Detty
Inactive - Retired affidavits: Alden Averkamp
Edward Field
Janet D. Johnson
Surrendered Certificates: James C. Hill, Jr
Doris Leader

On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia, and Obristed voted aye. Motion #18 carried.

- E. Report on To Do List.** There was no report at this time.

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11. Report of Executive Director

- A. Budget Update.** The Board's FY 2010, 2011 budget recommendation was released by the Legislature's Appropriations Committee (LAC). The LAC did restore \$4,789 in appropriation of funds over the Governor's recommendations (no increase from the FY09 budget). The LAC did not give the Board any flexibility within its Personal Service Limitation (PSL). The Governor's recommendations did provide some flexibility. The Board's Executive Committee approved the Executive Director to appear before the LAC on February 24, 2009 and request on behalf of the Board, some flexibility within the PSL from transfer of per diem funds to the general PSL to allow the Board some flexibility within the PSL for staff. The final recommendations of the LAC will be debated by the Legislature and the Governor before the Budget Legislative Bills will be approved this spring.
- B. Report on NASBA Executive Directors/ Staff Meeting, Jacksonville, Florida March 14-18, 2009.** ED Sweetwood and Staff Ebert provided reports about important topics discussed including international testing of the examination, exam security, NASBA's new enforcement practices committee, cooperation with the IRS, HUD, and the GAO, and online applications. Both participated on a state panel for continuing education including discussion on CPE audits, self-study requirements, and how new courses should be developed. Both expressed appreciation to the Board for allowing attendance at the conference.
- C. Annual Letter.** The 2008 annual letter will be sent soon to all active permit holders and inactive registrants. The letter includes information on the recent passage of LB 31, Board Committee updates, yearly statistics on Board licensing activity, and summaries of Board revenue and expenditures by program.
- D. Board Policy Changes for 2007.** ED Sweetwood provided a summary of Board policy changes that were adopted in 2008 from the Board minutes.
- E. Report on Nebraska.gov Online Processes.** ED Sweetwood reported that the online license renewals are ready for the 2009-2011 period. Staff has met with Nebraska.gov staff to review the online licensing renewal process. Costs for IMS Services to support the backend systems including the Foxpro database have increased due to interaction issues with the JOKEL system. It has been noted much less paper and staff time is required due to the development of the online systems.
- F. Staffing and General Office Issues.** ED Sweetwood acknowledged Staff Lowe for her work as the Board's pre-auditor. After an extensive review of the Board communication billing over a six month period and requiring several inquiries, Lowe was able to decrease the costs associated with the Board's communication bill. A letter was sent to DAS Accounting and the Nebraska CIO office detailing Lowe's activity.
- G. Report on To Do List.** There was no report at this time.

12. New Business

- A. National Association of State Boards of Accountancy (NASBA) Items.**

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1.) NASBA Western Regional Meeting, June 3-5, 2009, Oklahoma City, OK. Chair Titus expressed the value of NASBA's Western Regional Conference after review of the latest agenda. Topics include the international delivery of the U.S. CPA Examination and issues brought forth by NASBA's International Examination Committee, changes and updates from the SEC, protecting the independence of state boards, implementing mobility provisions, and discussions with our regional neighbors. Moved by Fuhrman, seconded by Obrist, to approve Board attendance and the executive director at the NASBA Western Regional Meeting, June 3-5, 2009, Oklahoma City, OK or the Eastern Regional Meetings held June 17-19, 2009 in Indianapolis, IN. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia, and Obrist voted aye. Motion #21 carried.

2.) NASBA FYIs. The Board discussed and answered Focus Questions as proposed by NASBA.

B. Other Miscellaneous Items. Various articles were noted related to the CPA profession as provided by staff.

13. Adjournment

Moved by Rieker, seconded by King Wu, to adjourn the meeting at 1:25 pm on Friday, March 20, 2009. On a roll call vote, Members Titus, Fuhrman, Skiles, King Wu, Rieker, Wassinger, Zacharia, and Obrist voted aye. Motion #22 carried.

Respectfully submitted by,

Anne K. Fuhrman
Board Secretary