

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

April 30-May 1, 2001

1. General

A. Call to Order and Roll Call. The Board of Public Accountancy was called to order at 8:35 a.m. on Monday, April 30, 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 on Monday, April 30 and at the Lancaster County Event Center, 4100 N. 84th Street, Lincoln, Nebraska on Tuesday, May 1.

B. Approval of meeting agenda for April 1-May 1, 2001. Moved by Smith, seconded by Nuckolls, to approve the agenda for the April 30-May 1, 2001 meeting as written. On roll call vote, all members present voted aye. Motion number 1 carried.

C. Approval of the minutes of the January 18-19, 2001 Board meeting. Moved by Smith, seconded by Thornburg, to approve the minutes as written, correcting the typographical error on page 1, paragraph 1. 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 Klein, seconded by Hoiekvam, 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 January, February and March 2001 disbursements. The Board reviewed and approved the January, February and March 2001 disbursements.

C. Office Management Report. The Board reviewed a report on permits and registrations issued as of April 12, 2001. Prior year's statistics were also reviewed for comparison.

3. Executive Director's Report

A. LB 455 Update. The Executive Director reported that LB 455 was on General File with a Committee Amendment and would probably not get moved on during the remaining days of this session.

B. Budget Status. 1. Review of Actual and Projected Revenues and Expenses, analysis of same, and Review of Budget Alternatives for Applicable Action. The Board reviewed the budget status report dated March 31, 2001 and the budget submission for the biennium 2001-2003. No action necessary.

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CLOSED MEETING

Closed Meeting. Moved by Smith, seconded by Hoiekvam, that the Board go into closed session at 10:37 a.m. for the purpose of enforcement, disciplinary, personnel and litigation issues. On roll call vote, all members present voted aye. Motion number 4 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 Kavich, that the Board return to open session at 2:37 p.m. On roll call vote, all members present voted aye. Motion number 5 carried.

5. 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 6 carried.

B. Decision and Order for Gerard Forget: Complaint #99-07 – Decision Appealed. The Board received an update from the Executive Director that Mr. Forget has appealed the Board's final Decision and Order.

C. Decision and Order for Jeffrey Benne: Complaint #00-04 – Decision Appeal. The Board received an update from the Executive Director that Mr. Benne has appealed the Board's final Decision and Order.

D. Complaint #00-12 Form of Practice Violation. No action necessary at this time.

E. Complaint #0001-001 Failure to Return Records/ Form of Practice. Moved by Smith, with the Committee's recommendation, that there is no finding of probable cause and to dismiss this complaint. On roll call vote, all members present voted aye. Motion number 7 carried.

F. Complaint #0001-002 Use of Term. No board action necessary at this time.

G. Complaint #0001-003 Failure to Return Records. Moved by Smith, with the Committee's recommendation, that there is no finding of probable cause and to dismiss this complaint. On roll call vote, all members present voted aye. Motion number 8 carried.

L. Request for Agency Declaratory Order. Moved by Smith, with the Committee's recommendation, to enter an Order based on the facts provided that the name "BKD, LLP" would not

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be a violation of the Public Accountancy Act or Title 288. On roll call vote, all members present voted aye. Motion number 9 carried.

H. Complaint #0001-004 Acts Discreditable, I. Complaint #0001-005 Violation of Rule of Professional Conduct, and J. Complaint #0001-006 Violation of Rule of Professional Conduct. Moved by Smith, with the Committee's recommendation, to request the CPAs and CPA firm sign Litigation Monitoring Consent Orders. On roll call vote, all members present voted aye. Motion number 10 carried.

K. Complaint #0001-008 Failure to Return Records. No action necessary at this time.

M. Litigation Monitoring Consent Orders. Moved by Smith, with the Committee's recommendation to change paragraph 8 on page 2 to read as follows and to be used henceforth: "Respondent agrees to provide to the Board copies of any and all releases and settlement agreements concluding all or any portion of the litigation, including those subject to any consent confidentiality agreement or order concerning settlement of the litigation. However, any such settlement agreements or releases shall be kept confidential by the Board and shall not be made part of any public record nor offered as evidence at any hearing except as permitted by the Nebraska Rules of Evidence." On roll call vote, all members present voted aye. Motion number 11 carried.

N. Informal Hearings. The Board met with Assistant Attorney General Lynn Melson regarding the Board's informal hearing procedures.

O. Complaint #9900-006 Failure to Follow GAAP w/ No Qualification in Report. No action by the board necessary at this time.

6. Report of Educational Advisory Committee

A. 60/90 Day Candidates.

1. Candidates from November 2000 Exam. Moved by Kavich, seconded by Smith, to ratify the release of the examination grades to three candidates of the November 2000 CPA Exam sitting under the 60/90 day provision, who submitted transcripts after the 90 day deadline. On roll call vote, all members present voted aye, except Member Gaines who voted nay. Motion number 12 carried.

2. Flowchart/Procedure Changes. Moved by Kavich, seconded by Nuckolls, to approve the changes in procedures for 60/90 day candidates, and to amend the flowchart accordingly. On roll call vote, all members present voted aye. Motion number 13 carried.

B. Approved Candidates for May 2001 Exam. Moved by Kavich, seconded by Thornburg, to approve the applications to sit for the May 2001 CPA Exam. On roll call vote, all members present voted aye. Motion number 14 carried.

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7. 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 15 carried.

The Committee also disqualified the following courses for hours: #00-0650 to #00-0657, #00-1833 to #00-1840, #00-1846, #00-1859, #00-1865, #00-1952, #00-1962, #00-1965, #00-2026, #00-2027, #00-2028, #01-0113, and #01-0124. It was noted that the disqualification of programs from the January meeting to the present was 1%.

B. Discussion on Audio-, Tele-, and Video-conferences. Moved by Gaines, with the Committee's recommendation, that at a minimum, if the sponsor of the CPE course was registered with NASBA's CPE Registry, and therefore met their CPE standards and requirements, we would then also accept the course. A program of this type might be accepted if one of the following minimum standards were met:

1) Course Sponsor registered with NASBA's CPE Registry and program accepted by NASBA;
And/Or 2) the following standards were met:

- The program maintains or increases the professional competence of a Certified Public Accountant or does both.
- Sponsors specify the instructional methods to be used in the delivery of the material (Tele-, Audio-, Video-, Web-, etc.)
- Sponsors supply verification of attendance along with a description of the procedures used to monitor attendance.
- Sponsors provide a method of interacting by the participant. (ie. questions during the program or at the end of the program, posting questions to the instructor, posting questions to other participants, or answering questions posted by other participants, or requiring the participant to input specific key strokes, like CPA license #, SS#, on a random basis.)
- Sponsors supply evidence of completion of the learning materials. (i.e., evaluation, test, etc.)

The Program Qualification Form will also be modified to include check boxes for the mode of delivery of courses, so we can determine if the course is an Audio-, Tele-, or Video-conference, self-study, article or publication, etc. The Board will then publish a notice of the standards for acceptance of Audio-, Tele-, and Video-conferences on the web site (on CPE page), print in the May/June Newsletter, and send a letter to all active permit holders. On roll call vote, all members present voted aye. Motion number 16 carried.

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8. Report of Examination & Licensing Committee

H. Request for Evaluation of Experience. Mr. Svoboda appeared before the Board to discuss how to document his experience since the firm at which he worked has since changed hands and the exact time frames cannot be documented. The Board mentioned that he request the CPA from the prior CPA firm sign an affidavit as evidence of his public accounting experience, that would count toward the professional experience requirement.

I. Interpretation of Experience Requirement. Moved by Nuckolls, with the Committee's recommendation, to clarify the "Certificate of Public Accounting Experience" form so that the CPA attesting to the experience substantiates that the work was done for the CPA firm listed (and not any other entity). On roll call vote, all members present voted aye. Motion number 17 carried.

CLOSED MEETING

Closed Meeting. Moved by Gaines, seconded by Kavich, that the Board go into closed session at 3:58 p.m. for the purpose of enforcement issues. On roll call vote, all members present voted aye. Motion number 18 carried.

Return to Open Meeting. Moved by Smith, seconded by Klein, that the Board return to open session at 4:34 p.m. On roll call vote, all members present voted aye. Motion number 19 carried.

8. 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, with the Committee's recommendation, to approve the applications for Reinstatement to Active Permit. On roll call vote, all members present voted aye. Motion number 21 carried.

C. May 2001 Exam Application with Misdemeanor Charge. Moved by Nuckolls, with the Committee's recommendation, to approve the examination application to sit for the May 2001 CPA Exam. On roll call vote, all members present voted aye. Motion number 22 carried.

D. Request for CPA Certificate Issuance - Felony Charge. Moved by Klein, seconded by Hoiekvam, to issue a Nebraska CPA certificate to applicant John Troshynski. On roll call vote,

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Members Klein, Hoiekvam and Graf voted aye; Members Nuckolls, Thornburg, Kavich, Gaines and Smith voted nay. Motion number 23 failed.

E. Exam Conference Issues. This item was deferred for discussion on Tuesday morning.

F. Reinstatement of Surrendered CPA Certificate. Moved by Nuckolls, with the Committee's recommendation, to approve the reinstatement of the surrendered CPA Certificate of James Gegg upon the Board's receipt of the "Authorization of Interstate Exchange of Information" forms from Kansas and Missouri, showing that his licenses there are in good standing and there has been no disciplinary action. On roll call vote, all members present voted aye. Motion number 24 carried.

G. Report of Licensees CPE Deficient for Renewal. This was provided for informational purposes only.

The Board recessed at 5:10 p.m.

The Board reconvened on Tuesday, May 1, 2001 at 9:04 a.m. with all Members and the Executive Director present.

9. New Business

A. Future Meeting Dates. The Board will next meet on June 18-20, 2001 and September 20-21, 2001.

B. NASBA.

1. Attendance at Regional Meeting. Moved by Gaines, seconded by Klein, to approve the expenses for attendance at NASBA's Regional Meeting May 30-June 1, 2001 in Kansas City. On roll call vote, all members present voted aye. Motion number 25 carried.

2. Final Written APS Report. The final written report from the Ethics Committee on Alternative Practice Structures was distributed to the Board. No action necessary.

8. Report of Examination & Licensing Committee

E. Exam Conference Issues. Moved by Klein, seconded by Nuckolls, to pay expenses of Smith, Kavich and Hoiekvam to attend NASBA's Examination Conference on May 10, 2001. On roll call vote, all members present voted aye. Motion number 26 carried.

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9. New Business

C. Proposed Legislative Draft. The Board discussed a proposed legislative draft that is a rewrite of the Public Accountancy Act of 1957. It was determined that further discussion should take place at the June Board meeting.

10. Adjournment

It was moved by Smith, seconded by Gaines, that the Board adjourn at 5:25 p.m. On roll call vote, all members present voted aye. Motion number 27 carried.

Submitted by,

William Nuckolls
Secretary