

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

Minutes
September 19, 2005

DRAFT The minutes are not final until approved at the November 16, 2005 Board meeting.

Monday, September 19, 2005

1. General

- A. Call to Order and Roll Call.** The Nebraska Board of Public Accountancy (Board) was called to order at 8:37 a.m. on Monday, September 19, 2005 with Chair Dean Graf, CPA presiding. The roll was called with the following members present: Dean Graf, William Nuckolls, Jim Titus, Richard Zacharia, Doug Skiles, Anne Fuhrman, Kate King Wu, and Tom Obrist. Also present were Executive Director Dan Sweetwood, Staff members Kelly Ebert and Jo Lowe. The meeting was held at the Board Office at 140 N. 8th Street, Suite 290, Lincoln, Nebraska. Ken Brauer, Nebraska Society of Independent Accountants, was also present.
- B. Approval of Meeting Agenda for September 19, 2005.** Moved by Zacharia, seconded by King Wu, to approve the agenda for the September 19, 2005 meeting. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus, and Zacharia voted aye. Motion #1 carried.
- C. Approval of Minutes from July 19-20, 2005.** Moved by Obrist, seconded by Nuckolls, to approve the Board minutes from the July 19-20, 2005 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)

Angela Gallagher was present regarding Agenda Item 8.A. Request for Exam Extension. Exam and Education Chair Skiles gave the background of the exam extension request, and Board members were able to ask Angela questions.

3. Consent Agenda

- A. Published Notice of Meeting.** Moved by Nuckolls, seconded by Obrist, 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 reports that were prepared by staff. Staff will continue to provide reports requested by Board members, such as a balance sheet and monthly year-to-date comparison reports. Disbursements for June and July 2005 were approved.
- C. Review of Board Budget Status Report.** The Budget Status Report was provided, and Executive Director Sweetwood reported that the end of fiscal year "05" budget status report should be ready by October 1, 2005.
- D. Office Management Report.** The Office Management Report was provided.

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

Minutes
September 19, 2005

4. Report of the Chair

- A. **Report of the Chair.** Chair Graf reported on the NASBA Strategic Initiative Committee meeting which complimented the Nebraska Board committee structure. NASBA's proposed Legislative Committee would be available to assist states with legislation if needed. Chair Graf made the suggestion that regional legislative committees should be set up to assist adjoining states with proposed legislation.
- B. **Future Board Meeting Dates. Board meeting dates were set:** November 16, 2005, January 5-6, 2006, March 16, 2006, May 3-4, 2006, and July 19-20, 2006.
- C. **2005-6 Committee Appointments.** Chair Graf made the committee appointments.
- D. **Report on To Do List.** Staff was directed to attempt to make corrections to the Board member appointment dates with the Governor's office.
- E. **Other Miscellaneous Items.** There were no miscellaneous items at this time.

Closed Session

Closed Session. Moved by Obrist, seconded by King Wu, that the Board go into closed session at 9:30 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 10:15 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 Zwuygart Appeal Update.** Executive Director Sweetwood reported that Board attorney Robert Gruit represented the Board in the Lancaster County District Court for a further review of the record, as the case was remanded by the Nebraska Supreme Court.
- B. **Open Case/LMCO Update.** Chair Graf reviewed the open cases. Motion out of the Enforcement Committee to recommend case #04-21 move to formal hearing and to direct Mr. Robert Gruit, Board Attorney, to prepare and file a complaint against the named CPA for alleged violation including:
 - Public Accountancy Act 1-137 (2) Dishonesty, fraud, or gross negligence in the practice of public accountancy;
 - Public Accountancy Act 1-137 (4) Violation of rule of professional conduct adopted and promulgated by the Board under the authority granted by the Act;

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

Minutes
September 19, 2005

- Rules Title 288 Chapter 5.004.01 A licensee shall undertake only those engagements which he or his firm can reasonably expect to complete with professional competence. This shall mean only those which he or someone in his firm is qualified, either by experience or education, to handle.
- Rules Title 288 Chapter 5.004.05 Other Professional standards. A licensee in the performance of management advisory services or accounting and review services shall conform to the professional standards applicable to such services.
- Rules Title 288 Chapter 5.007.01 Acts Discreditable. A licensee shall not commit an act that reflects 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, Titus, and Zacharia voted aye. Motion #6 carried.

Motion out of Enforcement Committee to offer a Stipulation & Consent Order for alleged violation of probationary agreement (Public Accountancy Act 1-148 (3) Violation of probationary agreement.) signed and ordered by the Board September 23, 2004, to Sheryl Brenn; and, if there is no agreement, to proceed to a formal hearing, and to direct Board attorney Robert Gruit to file a complaint against Sheryl Brenn, inactive registrant CPA, for alleged violation of the Public Accountancy Act 1-148 (3) Violation of probationary agreement signed and ordered by the Board September 23, 2004. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus, and Zacharia voted aye. Motion #7 carried.

- C. **Phone Book Advertising.** Staff provided the Board a report on non-licensed CPA listings in the Omaha Dex Yellow Pages. The Board has written a letter to the Dex CEO requesting review of the Yellow Page “proofs” before publication so the public is not misled by false advertising. Staff reported they have had a difficult time attempting to contact telephone directories responsible for updated information provided by those wishing not to be listed under the heading “Certified Public Accountant.” Board members provided examples of difficulties they have experienced when dealing with the telephone directory representatives.
- 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 167 courses from July 13, 2005 to Sept. 1, 2005. The Committee also reviewed sponsor applications submitted by the Institute of Management Accountants and Smart Pros Ltd. The Committee reported they will review Board rules and current guidelines when determining if a course should be approved or not. The Committee will still review individual courses submitted by an approved sponsor. Motion out of Committee to approve the Institute of Management Accountants and Smart Pros Ltd as a CPE sponsor. On a roll call

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

Minutes
September 19, 2005

- vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus, and Zacharia voted aye. Motion #9 carried. The Committee reviewed the Regional Directors Focus Questions and NASBA's re-organization of Fields of Study.
- B. Ratification/Denial of Staff Program Qualification Evaluations.** Motion out of Committee to approve 166 courses and deny 1 course reviewed from July 13, 2005 to Sept. 1, 2005. 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.** There was no report at this time.
- D. Other Miscellaneous Items.** There was no report at this time.

7. Report of Licensing Committee

- A. Report of the Committee.** Committee Chair Titus gave the report. The Attorney General's opinion requested by the Board gave the Committee direction regarding revocation of certificates of non-renewed permit holders. Staff was directed to begin drafting regulations for the Committee's review regarding registration of certificates to distinguish between those who keep in contact with the Board and those who do not. The Committee requested assistance from Bill Ezzell, Deloitte and Touche LLP, to draft rules related to CPA firm ownership. Guidelines for firms on names and advertising, to prevent the public from being misled, were recommended by the Committee. Staff will gather information from other states and assist in the drafting of guidelines for Committee review.
- B. Revocation of Permit Holders Certificates with no Renewals between 1994 and 2002.** Motion out of Committee to recommend that the Board start the process to revoke the certificates of active permit holders who have not renewed for three years between 1994 and 2002 per the PAA 136-3(a), with assistance of Board attorney Robert Gruit. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Member Zacharia was absent. Motion #11 carried.
- 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 July 18 and September 16, 2005. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Member Zacharia was absent. Motion #12 carried.
- D. Reinstatements to Active Permit, Inactive Retired Affidavits, Surrendered Certificates.** Motion out of Committee to approve the surrendered certificate received between July 18 and September 16, 2005. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Titus voted aye. Member Zacharia was absent. Motion #13 carried.
- E. Report of To Do List.**
- F. Other Miscellaneous Items.**

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

Minutes
September 19, 2005

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

- A. Report of the Committee.** Committee Chair Skiles gave the report.
- 1.) **E & E Issues.** After gathering information from staff, CPAES, surrounding state Boards, and former Board members, the committee determined to bring the request for exam extension to the full Board for discussion.
 - 2.) **Education and Exam Information Exchange, Oct. 7, 2005.** Chair Skiles reported that the agenda had been set for the Education and Exam Information Exchange, and the Education Advisory Committee meeting on October 7, 2005.
 - 3.) **CBT Update.**
 - a.) **Fifth Window Exam Scores.** Chair Skiles reported no exam scores have been received at this time.
 - b.) **CPA Exam issues.** Information was presented to the Committee on exam enhancements for 2006, and that no Nebraska candidates had been affected by national exam issues.
 - c.) **Exam Fee Increase.** A letter from North Carolina Board reflects the concern about exam fee increases.
 - d.) **CPAES Update.** A survey of the exam application process for applicants will be refined by staff and CPAES. CPAES will use their resources to help administer the survey.
 - 4.) **Proposed UAA Rules 5-1 and 5-2 Rules Change.** Additional letters from Boards were provided to the Committee.
- B. Exam Extension Request involving Angela Gallagher.** After gathering information from staff, CPAES, surrounding state Boards, and former Board members and reviewing the information provided by Ms. Gallagher, the committee determined to bring the request for exam extension to the full Board for discussion. Ms. Gallagher's request was then discussed by the Board. Moved by Skiles, seconded by Fuhrman, to deny the request for exam extension. On a roll call vote, Members Graf, Fuhrman, King Wu, and Skiles voted aye. Members Nuckolls, Obrist, Titus, and Zacharia voted nay. Motion #14 did not carry. Moved by Zacharia, seconded by Obrist, to allow one more exam sitting during the October- November 2005 window. On a roll call vote, Members King Wu, Nuckolls, Obrist, Titus, and Zacharia voted aye. Members Graf, Fuhrman and Skiles voted nay. Motion #15 carried.
- C. Exam Score Ratification.** Chair Skiles reported no exam scores have been received at this time.
- D. Other Miscellaneous Items.** Member King Wu met with Board staff at the Prometric CBT Exam site in Omaha on September 8, 2005. She was favorably impressed with the exam set-up and test administration procedures.
- E. Report on To Do List.** There was no report at this time.

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

Minutes
September 19, 2005

9. Report of the Legislative Committee

- A. **Report on Proposed Legislative Re-write Status.** Chair Graf reported he and Vice-Chair Jim Titus had met via conference call with Executive Director Sweetwood, and the Nebraska Society of CPAs (NSCPA) President Dan Vodvarka on September 9, 2005 to discuss the proposed legislation. Initial drafts were reviewed as prepared by the legislative bill drafter's office for substantial equivalency, notification, and good moral character provisions. Draft copies were provided to Board members. Mr. Vodvarka provided a summary of discussion of the Society Board meeting on August 26, 2005 with Executive Director Sweetwood present. The Legislative Committee recommended that the best course of action was to proceed with a revision of the current Public Accountancy Act (PAA) involving substantial equivalency and notification for temporary practice provisions, and to abandon the addition of "good moral character." The topic of "good moral character" will be proposed within Board Rules rather than the PAA, as recommended in a recent Nebraska Supreme Court decision. Moved by Zacharia, seconded by King Wu that the Board proceed with the above recommended course of action. Drafts of the proposed legislation will be forwarded to Board members as they become available. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Obrist voted nay. Motion #10 carried.
- B. **Report on To Do List.** The Committee will continue to work with the Nebraska Society in the development of draft legislation for the PAA to submit to the 2006 Legislature for consideration.
- C. **Other Miscellaneous Items.** There were no miscellaneous items at this time.

10. Report of Quality Enhancement Program (QEP) Committee

- A. **Report of the Committee.** Committee Chair Fuhrman reported that the QEP Committee meeting was held September 9, 2005, and that all firms provided responses. Motion out of Committee to approve the QEP Committee's recommendations for Type 4 reports. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus, and Zacharia voted aye. Motion #16 carried. Motion out of Committee to approve the QEP Committee's recommendations for Type 3 reports. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus, and Zacharia voted aye. Motion #17 carried. Motion out of Committee to approve the policy that the third time a Stipulation and Consent Order (S&C) is issued to the firm for late submission of reports or for non-submission, the QEP Committee will review the firm's file for possible forwarding to the Enforcement Committee. The second time a S & C is issued to the firm, staff will send a letter notifying the firm of the policy. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, Titus, and Zacharia voted aye. Motion #18 carried. The Committee

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

Minutes
September 19, 2005

- determined the six most common errors on 2005 reports, and postcards will be sent to all permit holders. The Committee and staff are actively looking for reviewers, which would alleviate the necessity of reviewers also serving on the QEP Committee. Courtney Baillie was recognized with a resolution for her many years of dedicated service. Staff was directed to gather information to determine if CPE was available to Board members for serving on the QEP Committee.
- 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.

11. Report of Executive Director

- A. Board Budget Update.** Executive Director Sweetwood (ED) reported on the budget status in agenda item 3.C. The Board is within FY '06.
- B. Report on NASBA CBT Symposium/ Center for the Public Trust Conference held in Washington D.C.** Executive Director Sweetwood thanked the Board for allowing him and Board member Doug Skiles to attend the NASBA CBT Symposium/Public Trust conference, September 14-15, 2005. He reported that former Board Chair William Gaines, Jr. had been appointed to an AICPA BOE Examination Committee, and that efforts were being made to enhance the trust in the accounting profession. Both the E.D. and Member Skiles learned additional information about the exam. A report on the conferences will be included in the November Board packet.
- C. NOL Update.** Meetings continue with [Nebraska Online](#) to create the NBPA database and develop online licensing and CPE submission for permit holders.
- D. Staffing and General Office Issues.** Nicole Rowedder, a UNL accounting student, was introduced as the new Board intern.
- F. Report on To Do List.** There was no report at this time.
- F. Other Miscellaneous Items.** There were no additional miscellaneous items.

12. New Business

- A. National Association of State Boards of Accountancy (NASBA) Items.** Executive Director Sweetwood noted that concern had been expressed for hurricane displaced CPAs by NASBA and AICPA leadership and the ability for displaced CPAs from the affected regions to temporarily practice in other states while they decide what course of action to take relative to their normal practices. Sweetwood reported that his interpretation within the PAA 1-163, the Board would have the authority to grant temporary practice provisions to the displaced CPAs incidental to their regular practice until they decide what course of action they would take in their regular practice. The Board agreed with this interpretation.
- B. Other Miscellaneous Items.** Various articles were noted related to the CPA profession as provided by staff.

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

Minutes
September 19, 2005

13. Presentation by Nebraska.gov

Megan and Kevin Lyons from Nebraska.gov provided an interactive update to the Board on the revised Board website and on-line CPE reporting. Work continues on the Board's database and online licensing components.

14. Adjournment

Moved by Titus, seconded by King Wu, to adjourn the meeting at 4:28 p.m. on Monday, September 19, 2005. On a roll call vote, Members Graf, Fuhrman, King Wu, Nuckolls, Skiles, Titus, and Zacharia voted aye. Member Obrist was absent. Motion #19 carried.

Respectfully submitted by,

William Nuckolls
Board Secretary