

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

Minutes
November 17, 2006

DRAFT: Minutes of the meeting are not final until approved at the January 2007 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, November 17, 2006 with Chair Jim Titus, presiding. The roll was called with the following members present: Jim Titus, Doug Skiles, William Nuckolls, Anne Fuhrman, Tom Obrist, and Michael Wassinger. Members Kate King Wu and Richard Zacharia were absent. Also present were Executive Director Dan Sweetwood, Staff members Kelly Ebert and Jo Lowe, and Ken Brauer, Nebraska Society of Independent Accountants. 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 and asked if anyone present needed an agenda or had any questions regarding the law.
- B. Approval of Meeting Agenda for November 17, 2006.** Moved by Nuckolls, seconded by Obrist, to approve the agenda for the November 17, 2006 meeting. On a roll call vote, Members Titus, Fuhrman, Nuckolls, Obrist, and Skiles voted aye. Members Kate King Wu and Richard Zacharia were absent. Member Wassinger abstained. Motion #1 carried.
- C. Approval of Minutes from September 22, 2006.** Moved by Skiles, seconded by Obrist, to approve the Board minutes from the September 22, 2006 meeting. On a roll call vote, Members Titus, Fuhrman, Nuckolls, Obrist, and Skiles voted aye. Members Kate King Wu and Richard Zacharia were absent. Member Wassinger abstained. Motion #2 carried.

2. Public Comment Period (15 minute period)

Ken Brauer, Nebraska Society of Independent Accountants, was present to provide information to the Board regarding the Accreditation Council for Accountancy and Taxation credentials including the process and definition for the credentials. He mentioned that it appears there could be federal legislation in 2007 regarding regulation of tax preparers.

Dan Vodvarka, Nebraska Society of CPA's President, was present to update and to report on proposed legislation regarding amendments to Public Accountancy Act (PAA) 1-124 and 1-136.02 to be offered to the Legislature by the Society:

- In PAA 1-124, allow 4 years of acceptable experience in the previous 10 as a CPA in another jurisdiction to meet educational requirements for reciprocal certificate applicants.
- Change 1-136.02 2B from 5 in 10 to 4 in 10 for consistency.

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- Change “may” to “shall” in granting a certificate in section 1-124. Chair Titus suggested that a phrase regarding that the applicant “meets all other Board qualifications for a certificate” be added to the draft legislation, so the Board is not required to grant certificates to other states CPAs who may not meet Character and Fitness Standards as proposed in rules approved by the Board and awaiting approval by the Attorney General and Governor’s Policy Research Office.

After review by Board members, the Society hopes to introduce the proposed legislation in the January 2007 session.

3. Consent Agenda

- A. **Published Notice of Meeting.** Moved by King Wu, seconded by Fuhrman, to approve the consent agenda. On a roll call vote, Members Titus, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Wassinger voted aye. Member Zacharia was absent. Motion #3 carried.
- B. **Approval of Disbursements.** Board Secretary Nuckolls reviewed the disbursements. Disbursements for September and October 2006 were approved.
- C. **Review of Board Budget Status Report.** The Budget Status Report was provided. Executive Director Sweetwood reported on the 2006-2007 fiscal year budget, and reported that this year may have significant enforcement expenditures. If expenditures go over budget, the Legislative fiscal office will request additional information, as they have oversight of the Board’s budget.
- 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. **Ms. Lynn Melson, Assistant Nebraska Attorney General/ Board Counsel:**
 - 1.) **General discussion on the role of the Board and the Attorney General’s office.** Ms. Melson gave an overview of the Attorney General’s duties dealing with constitutional litigation and state agency assistance. State agency duties include providing assistance on legal matters such as informal and formal opinions, representing the agency in litigation, and rules and regulation revisions.
 - 2.) **Raynor v. State of Nebraska, United States District Court, 4:06CV3244.**

Closed Session

Closed Session. Moved by King Wu, seconded by Skiles, that the Board go into closed session at 11:12 a.m., for the purpose of updating the Board about current open enforcement cases 05-06 and 04-21 and to discuss litigation filed against the Board with Board counsel Ms. Melson. On a roll call vote, Members Titus, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Wassinger voted aye. Member Zacharia was absent. Motion #7 carried. Chair Titus restated that the purpose for the closed session was to update the

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Board about current open enforcement cases 05-06 and 04-21 and to discuss litigation filed against the Board with Ms. Melson.

Return to Open Session. Moved by Obrist, seconded by King Wu, that the Board return to open session at 11:28 a.m. On a roll call vote, Members Titus, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Wassinger voted aye. Member Zacharia was absent. Motion #8 carried.

The Board discussed disciplinary jurisdiction over CPAs temporarily practicing in Nebraska with Ms. Melson.

- C. Discussion of NASBA Annual meeting, Atlanta, GA, October 30-November 1, 2006.** Board members felt the meeting was very helpful with issues facing Nebraska such as the UAA revisions including standards and rules of conduct, and concerns regarding statutory disciplinary ability over CPAs not licensed in Nebraska with the increase in mobility and temporary practice privileges. Chair Titus was able to spend time with Noel Allen, NASBA and North Carolina Counsel, in regard to potential litigation issue in Nebraska and to solicit NASBA assistance. He noted that NASBA contacts have been beneficial to the Nebraska Board.
- D. Review of Board Calendar.** The next Board meeting will be January 4-5, 2007. If one day is required, the Board meeting will be January 5, 2007. NASBA meeting dates were added to the calendar for 2007.
- E. Report on To Do List.** There was no report at this time.

Closed Session

Closed Session. Moved by King Wu, seconded by Skiles, that the Board go into closed session at 9:55 a.m., for the purpose of updating the Board about current open enforcement cases and the discussion with Noel Allen regarding “holding out” as a CPA in a non-licensed CPA firm. On a roll call vote, Members Titus, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Wassinger voted aye. Member Zacharia was absent. Motion #4 carried. Chair Titus restated that the purpose for the closed session was to update the Board on current open enforcement cases and the discussion with Noel Allen regarding “holding out” as a CPA in a non-licensed CPA firm, and that the session would be limited to those matters.

Return to Open Session. Moved by Skiles, seconded by Fuhrman, that the Board return to open session at 10:24 a.m. On a roll call vote, Members Titus, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Wassinger voted aye. Member Zacharia was absent. Motion #5 carried.

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5. Report of Enforcement of Professional Conduct Committee

- A. Open Case /LMCO Update.** ED Sweetwood reviewed the open cases.
- 1.) Case #04-21.** Chair Titus indicated he had granted a continuance on the motion offered by Respondent's attorney involving Case 04-21. A panel of three CVA credentialed CPAs reviewed the technical aspects of the case on November 16, 2006. The panel will prepare a report, with recommendations for the Board. A public hearing will be rescheduled for the January 2007 Board meeting, where the Board will determine the outcome of the case, based on all of the evidence presented. ED Sweetwood commented that this is a good model for use in future cases with very technical questions that need to be answered from one CPA to another CPA. Board Members were told not to open any mailings from the person who filed the complaint as the information is not part of the hearing record.
- 2.) Case #05-06 Michael Walsh.** The Board's disciplinary decision has been appealed to the Lancaster County District Court.
- B. Recommended Closure of Enforcement Cases.** Motion out of Committee to recommend that the Board close case # 06-06. The case involved an individual in Arizona who was disciplined in California and had his credentials subsequently revoked by the Arizona Board of Accountancy. The person consented to voluntarily surrender his Nebraska Certificate with the understanding it is revoked. On a roll call vote, Members Titus, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Wassinger voted aye. Member Zacharia was absent. Motion #6 carried.
- C. Report on To Do List.** There was no report at this time.

6. Report of Continuing Professional Education (CPE) Committee

- A. Report of the Committee.** Committee Chair Nuckolls gave the report. The Committee reviewed a total of 197 courses from September 2, to November 14, 2006, with 193 approved and 4 denied. The Committee reviewed CPE sponsor applications. Motion out of Committee to approve Lorman Education Services, Executive Benefits Design Group, and Deloitte & Touch USA LLP (except for all personal development courses) as CPE sponsors. On a roll call vote, Members Titus, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Wassinger voted aye. Member Zacharia was absent. Motion #10 carried.
- The Committee reviewed the staff evaluation of reinstatement applications and referred the list to the Licensing Committee.
- Moved by Obrist, seconded by King Wu, to approve up to 16 CPE hours per renewal period for Board members serving on the QEP Committee. On a roll call vote, Members Titus, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Wassinger voted aye. Member Zacharia was absent. Motion #11 carried.
- B. Ratification/Denial of Staff Program Qualification Evaluations.** Motion out of Committee to approve 193 courses and to deny 4 courses reviewed from

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September 2, to November 14, 2006. On a roll call vote, Members Titus, Fuhrman, Graf, King Wu, Nuckolls, Obrist, and Skiles voted aye. Member Zacharia was absent. Motion #9 carried.

- C. **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.
- 1.) **EAC Meeting Report.** The Education Advisory Committee (EAC) met on Friday, October 13, 2006 at the Board office. The Committee discussed the proposed UAA 5-1 and 5-2 Rule changes, and suggestions were forwarded to the NASBA Education Committee. The 150 Hour Rule Perspective was provided by Dr. Thomas Purcell. The consensus of the EAC was to remove some of the rigidity of the course requirements. Dr. Purcell wanted to ensure that the Board carefully weighs the effect on the profession of any changes in the 150 hour regulations. Nina Kavich, AICPA BOE Member, provided information via email and was recommended as a good resource for Committee members.
 - 2.) **Educational Issues.** The Board received a letter concerning acceptance of community college credits following receipt of a B.A degree. Current Educational Guidelines do not allow acceptance of two-year institution credits following a four-year degree. Based on the information provided, the Committee accepted the applicant's education to sit for the examination. While each instance will be reviewed on a case by case basis, Chair Skiles requested ratification by the Board of the Committee's action. Moved by Fuhrman, seconded by Obrist to ratify the action taken in this case regarding use of two-year institution credits following a four-year degree. On a roll call vote, Members Titus, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Wassinger voted aye. Member Zacharia was absent. Motion #12 carried. The Committee completed the NASBA Education Committee questionnaire and it was sent to NASBA. A completed copy of the questionnaire was provided.
- B. **Approval of CPA Exam Scores for the July – August 2006 Window.** Exam score statistics were provided to the Board. Moved by Wassinger, seconded by King Wu, to approve the CPA Exam scores for the July- August 2006 Window. On a roll call vote, Members Titus, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Wassinger voted aye. Member Zacharia was absent. Motion #13 carried.
- C. **Report on To Do List.** There was no report at this time.

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8. Report of the Legislative Committee

- A. **Report on Legislation.** Committee Chair Titus gave the report.
- 1.) **Update on 4 in 10 Legislation.** Dan Vodvarka provided update (see Public Comment Period for further details). Future drafts will be distributed to Board members.
 - 2.) **Title 288 Chapter 7: Temporary Practice Update.** Executive Director Sweetwood indicated the draft proposal has been distributed to various organizations for comment. The Accountants Coalition recommended the removal of the 60 day time length, as long as the primary place of business is outside of Nebraska. Ken Bishop, NASBA's Temporary Practice/Mobility Committee, has indicated he is willing to meet with the Board or attend a Legislative Committee meeting to discuss NASBA's proposal to allow mobility.
- B. **Report on To Do List.** There was no report at this time.

9. Report of Quality Enhancement Program (QEP) Committee

- A. **Report of the Committee.** Committee Chair Fuhrman reported that there was no report as the Committee work is mostly completed for the year. There was some discussion about NASBA's oversight of state's peer review programs under the Compliance Assurance Review Board (CARB).
- B. **Report on To Do List.** There was no report at this time.

10. Report of the Licensing Committee

- A. **Report of the Committee.** Committee Chair Obrist gave the report. Licensing issues involved a request by Mark Werner, ConAgra Foods, who intends to pursue revising the experience requirements to allow work in private industry. The Committee recommended no change to the current experience requirement. Firm online renewal applications must be certified by the managing partner that the application has been reviewed. Wording revisions to applications will be made by staff. Member Titus spoke to the Secretary of State's (SOS) Counsel regarding the use of firms DBA (doing business as). The SOS allows DBA names for firms without regard to business structure. The issue will go back to the Licensing Committee for determination. Suggestion was made that the firm application form certifies that only the name on the application is used for the business.
- B. **Approval of Probable Cause Complaint to be filed against 1995-2003 permit non-renewals per PAA 1-136(3) and potentially Title 288 Rules Chapter 5 007.06.** Motion out of Committee to recommend to the Board that there is probable cause and to file a complaint and notice of hearing against the list of 1995-2003 permit non-renewals per PAA 1-136(3) and a potential violation of Title 288 Rules Chapter 5 007.06. The hearing will be scheduled for the January

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- letter to Secretary of State John Gale stating the Board's satisfaction with the progress that has been made by Nebraska.gov.
- C. **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.**
- 1.) **NASBA Annual Meeting, Atlanta, GA, October 30- November 1. 2006.** Board Members expressed the value of attending the meetings and gathering information pertinent to Nebraska issues.
 - 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 King Wu, seconded by Wassinger, to adjourn the meeting at 1:47 p.m. on Friday, November 17, 2006. On a roll call vote, Members Titus, Fuhrman, King Wu, Nuckolls, Obrist, Skiles, and Wassinger voted aye. Member Zacharia was absent. Motion #18 carried.

Respectfully submitted by,

William C. Nuckolls
Board Secretary