STATE & CONSUMER SERVICES AGENCY
(Department of Consumer Affairs)

BOARD OF ACCOUNTANCY
Executive Officer: Carol Sigmann (916) 263-3680

The Board of Accountancy (BOA) licenses, regulates, and disciplines certified public accountants (CPAs). The Board also regulates and disciplines existing members of an additional classification of licensees, public accountants (PAs); the PA license was granted only during a short period after World War II. BOA currently regulates over 60,000 licensees. The Board establishes and maintains standards of qualification and conduct within the accounting profession, primarily through its power to license. The Board's enabling act is found at section 5000 *et seq.* of the Business and Professions Code; the Board's regulations appear in Title 16, Division 1 of the California Code of Regulations (CCR).

The Board consists of twelve members: eight BOA licensees (seven CPAs and one PA), and four public members. Each Board member serves a four-year term and receives no compensation other than expenses incurred for Board activities.

The operations of the Board are conducted through various standing committees and, for specific projects, task forces which are sunsetted at project completion. The Board's major committees include the following:

–The Qualifications Committee, among other things, reviews all applications for licensure, reviews workpapers to determine qualifications if it is unable to do so based on a file review, and considers all policy and/or procedural issues related to licensure.

–The Legislative Committee reviews legislation and recommends a position to the Board; reviews and/or edits proposed statutory language and regulatory language developed by other committees before it is presented to the Board; and serves as an arena for the various trade associations to express their concerns on issues.

–The Committee on Professional Conduct considers all issues related to the professional and ethical conduct of CPAs and PAs.

–The Administrative Committee is responsible for handling disciplinary matters concerning licensees.

The Board's staff administers and processes the nationally standardized CPA examination, currently a four-part exam encompassing the categories of business law and professional responsibility, auditing, accounting and reporting, and financial accounting and reporting. Generally, in order to be licensed, applicants must successfully complete all parts of the exam and three or more years of qualifying accounting experience (including experience in applying a variety of auditing procedures); one year of the experience requirement may be waived with college credit. Under certain circumstances, an applicant may repeat only the failed sections of the exam rather than the entire exam.

The current members of BOA are CPAs Avedick Poladian, Victor Calderon, Eileen Duddy, Ira Landis, Diane Rubin, Robert Shackleton, and Harry Mikkelsen; PA Walter Finch; and public members Robert Badham, Karen Mier, Baxter Rice, and Joseph Tambe.

MAJOR PROJECTS

McCorquodale Bills Call for BOA Restructuring and Sunset Review. Despite protests from BOA, two pending bills authored by Senator Dan McCorquodale would reduce the number of CPAs on the Board and subject the Board to a "sunset" review in less than two years.

In October 1993, BOA and the Tax Preparer Program were required to present testimony to the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions, chaired by Senator McCorquodale. The Subcommittee requested comments on whether CPAs and tax preparers should be deregulated and both agencies abolished; whether the two agencies should be merged; and whether either or both agencies should be transformed into bureaus which lack a multi-member policymaking board and operate under the direct control of the Director of the Department of Consumer Affairs (DCA). The Legislative Analyst's Office (LAO) had already called for the abolition of both BOA and the Tax Preparer Program. *[13:2&3 CRLR 38]*

At the hearing, BOA testified that it should neither be abolished nor merged with the Tax Preparer Program. *[14:1 CRLR 26–27]* The Center for Public Interest Law (CPIL) submitted written testimony disagreeing with LAO and opining that consumers need an agency to regulate CPAs, especially in light of the California Supreme Court's decision in *Bily v. Arthur Young & Company*, 3 Cal. 4th 370 (1992), in which the Court essentially immunized CPAs from civil liability for professional negligence which harms consumers or members of the public other than those with whom they have contracted. However, CPIL expressed serious concerns about the structure and operations of the Board, and questioned its ability and willingness to protect consumers from incompetent CPAs. Specifically, CPIL challenged the supermajority of CPAs which control the Board; BOA's use of a licensing exam with an extremely low pass rate and its failure to properly clarify its other entry standards in statute or regulation; its excessive use of non-Board-member CPAs in licensing and enforcement decisionmaking; and its repeated attempts to stifle lawful competition for the CPA profession from non-CPA accountants. *[13:4 CRLR 5]*

At its January 28 meeting, the Board approved a letter to Senator McCorquodale in which it addressed several of the issues raised by CPIL. BOA defended the low pass rate on the nationally standardized CPA exam by arguing that many people who take it for the first time have completed only 30 hours of college-level accounting and auditing courses; according to BOA, by the time most applicants pass all parts of the exam, they have "studied substantially more of the same subjects and have reached an acceptable level of professional knowledge." BOA disagreed with CPIL's assertion that the pass rate for the exam is a "closely guarded secret" but failed to disclose it.

As to the Board's use of non-Board-member CPAs on its licensing and discipline committees, BOA agreed that it "might be desirable to have these functions handled exclusively by professional staff," but noted that such a restructuring would necessitate increases in licensing fees. The Board argued that "licensees bring a significant level of technical knowledge to the Board," and that the use of "volunteer" committees of licensees "has proven to be a cost-effective method of acquiring much-needed expertise."

BOA also disagreed with CPIL's perception that it focuses a large portion of its

enforcement budget on unlicensed practice and that its CPA-dominated membership has resulted in cartel-like actions intended to protect the CPA profession. The Board defended its position in the *Bonnie Moore* case *[13:4 CRLR 30; 13:2&3 CRLR 45]* as demonstrative of its "commitment to consumer protection."

In spite of the Board's letter, however, the Senate Subcommittee's final report released on April 11 found that "there are... several problems with the current operation of the Board." Specifically, the Subcommittee stated that BOA "does not have an adequate enforcement program." In this regard, the Subcommittee found that, of 6,039 calls from consumers in 1992–93, the Board generated only 814 complaints and took only 50 disciplinary actions (26 of which were stipulated judgments); the Subcommittee also stated that the Board's expenditure of only 55.9% of its budget on enforcement "is much less than other boards which regulate professions which could cause severe financial harm to the public." Further, the Subcommittee found that BOA "may be operating to bar qualified professionals from entry into the accounting field" through its use of the national CPA exam and its failure to use the rulemaking process to properly codify its experience requirements; and "has on occasion attempted to protect existing members from competition" through its adoption, enforcement, and failure to repeal a rule which has now been ruled unconstitutional by the California Supreme Court in *Bonnie Moore*. Although the Subcommittee noted that these problems do not warrant wholesale elimination of the Board, it recommended the removal of two of the Board's CPA members to create "a smaller board [which] may also function more efficiently." According to the Subcommittee, by removing some of the CPA members from BOA, "the Board may be able to focus more on its enforcement activities and less on protecting the interests of the profession it regulates."

In conjunction with the release of the Subcommittee's final report, Senator McCorquodale introduced SB 2036, which would establish a "sunset" review process for all occupational licensing agencies within DCA, including BOA. On April 5, he also amended SB 2038 to change the composition of BOA from twelve members (eight licensees and four public members) to nine members (six licensees and three public members).

At its May 13 meeting, the Board reviewed a letter drafted in response to the Subcommittee's report. In its letter, the Board disputed the Subcommittee's finding that BOA took only 50 disciplinary actions in 1992–93; the Board asserted that the report ignored other disciplinary actions taken that year, including 51 citations resulting in fines, 246 reprimands or cease and desist letters, and 310 notices of reprimand. BOA conceded that it spent only 55.9% of its budget on enforcement, noting that the remainder of the budget was allocated to "examining, licensing, and monitoring the competency" of its licensees "with the important goal of keeping the need for costly disciplinary activities to a minimum." The Board also agreed that the passage rate for first-time takers of the CPA exam is low, but argued that the test is a national examination, it can be taken in stages or sections, and that if California were to stop using the national exam, new barriers to licensure would be created for other-state CPAs seeking to practice in California and California CPAs seeking to practice elsewhere.

At this writing, both McCorquodale bills were passed by the Senate Business and Professions Committee on May 9 and are pending in the Senate Appropriations Committee (*see* LEGISLATION). At its May 13 meeting, BOA voted to oppose SB 2038 and its change to the make-up of the Board, and agreed that staff should send a letter to Senator McCorquodale requesting that the Board maintain its current composition pending its "sunset" review under SB 2036.

"Substantially Equivalent" Experience. At its January, March, and May meetings, the Board continued its discussion of the kind and characteristics of private and government accounting experience which is deemed to be "substantially equivalent" to public accounting work for purposes of qualification towards licensure under Business and Professions Code section 5083 and section 11.5, Title 16 of the CCR.

This issue has been the source of confusion within the Board and criticism by the Center for Public Interest Law and, now, the legislature (*see above*). In particular, CPIL has argued the following: (1) the Board substantially changed the nature of the required experience in 1991 with its approval of revised "Form E" (the form which employers of licensure applicants must complete about the experience gained), without undertaking rulemaking required under the Administrative Procedure Act such that licensure applicants and employers may be deemed to know what is expected of them; (2) the Board requires at least 500 hours of qualifying experience, although this number of hours is not mandated by any statute or regulation; and (3) the Board's enabling act (specifically, Business and Professions Code section 5083) and the regulation which is supposed to clarify the act (section 11.5) are so vague that neither the Board's Qualifications Committee, the Substantially Equivalent Task Force created to resolve this problem, nor the Board itself (much less licensure applicants) know what kind of experience satisfies the requirement. *[14:1 CRLR 27; 13:4 CRLR 5]*

At its January, March, and May meetings, the Board reviewed and approved several documents and took the following actions:

• In January, the Board reviewed a January 20 document entitled *Substantially Equivalent Experience Issue Paper* which attempted to review the history of the changes it has made to its experience requirement since 1991 and its reasoning behind them. The Issue Paper also reviewed the two major recommendations of the Substantially Equivalent Task Force—that in order to qualify as "substantially equivalent" to public accounting work, private or government accounting experience must be performed (1) under the supervision of a licensed CPA, and (2) in accordance with professional standards which demonstrate that the individual can apply and has an understanding of those standards. *[14:1 CRLR 27]* Following discussion, the Board unanimously approved the recommendations of the Task Force; however, it requested that staff prepared a detailed summary of all of the Board's directives and decisions regarding qualifying experience since its revision of Form E (*see below*).

• The Board reviewed in January and approved in May draft legislative and regulatory changes which must be accomplished in order to implement the recommendations of the Task Force and clarify the Board's entry standards. Significantly, the Board is not currently authorized to require that all qualifying experience be performed under the direct supervision of a licensed CPA.

First, the Board decided to seek legislative revision of Business and Professions Code section 5081.1, to set forth requirements which must be met by applicants seeking admission to the Uniform CPA exam. Under the draft changes, applicants have four pathways to admission to the exam:

–Section 5081.1(a): A bachelor's degree from an accredited institution of study with a minimum of 20 semester units of accounting and a minimum of ten semester units in commercial law, economics, finance, and related business administration subjects. If an applicant is educated outside the United States, he/she

must obtain an evaluation from a Board-approved evaluation service confirming that such education is equivalent to a United States bachelor's degree, with a minimum of 20 semester units of accounting and ten semester units in commercial law, economics, finance, and related business administration subjects.

–Section 5081.1(b): Completion of 120 semester units of study at the college level, including completion of at least 20 semester units of accounting and a minimum of ten semester units in commercial law, economics, finance, and related business administration subjects. If an applicant is educated outside the United States, he/she must obtain an evaluation from a Board-approved evaluation service confirming that such education is equivalent to 120 semester units at the college level, with a minimum of 20 semester units of accounting and ten semester units in commercial law, economics, finance, and related business administration subjects.

–Section 5081.1(c): Applicants who lack a bachelor's degree or completion of 120 units of college study may qualify for the CPA exam by (a) completing a minimum of 20 semester units of accounting and ten semester units in commercial law, economics, finance, and related business administration subjects, and (b) passing a preliminary written exam approved by the state Department of Education.

–Section 5081.1(d): Applicants who are public accountants licensed by the Board may be admitted to the CPA exam.

Next, the Board approved draft amendments to Business and Professions Code section 5083, which describes the length of experience applicants must complete in order to be licensed as a CPA. The Board's draft amendments specify that experience in public accounting may be qualifying if completed by, or in the employ of, a person licensed or otherwise having comparable authority under the laws of any state or country to engage in the practice of public accountancy; experience in private or governmental accounting or auditing employment may be qualifying provided that such work was performed under the direct supervision of an individual licensed by any state to practice in the practice of public accountancy. Under the draft amendments, an applicant who has passed the CPA exam is entitled to be licensed as a CPA if he/she has completed any one of the following experience requirements:

(1) Four years of experience, when the applicant has qualified to sit for the exam under draft section 5081.1(c) above.

(2) Three years of experience, when the applicant has qualified to sit for the exam under draft section 5081.1(b) above.

(3) Two years of experience, when the applicant has qualified to sit for the exam under draft section 5081.1(a) above.

The draft amendments also provide that, in order to be qualifying, experience shall have been performed in accordance with applicable professional standards. The legislation would require the Board to prescribe rules establishing the character and variety of experience necessary to fulfill the experience requirements set forth in section 5083, including a requirement that each applicant demonstrate to BOA satisfactory experience in the attest function as it relates to financial statements.

Finally, BOA approved draft revisions to section 11.5, Title 16 of the CCR, which is supposed to define more clearly the characteristics of the accounting experience required under section 5083. As proposed, amended section 11.5 would provide that in order to meet the attest experience requirements in section 5083, an applicant must show to the satisfaction of BOA that his/her experience has included (1) experience in the planning of audit work including the selection of the procedures to be performed; (2) experience in applying a variety of auditing procedures to the usual and customary transactions included in financial statements; (3) experience in the preparation of working papers in connection with the various elements of (1) and (2) above; (4) experience in the preparation of written explanations and comments on the work performed and its findings; and (5) experience in the preparation of and reporting on full disclosure financial statements. BOA also proposes to delete existing language in section 11.5(b) which states that experience obtained in private or governmental employment shall be qualifying if, in the opinion of the Board based upon a review of the character and variety of experience of an applicant, such experience is deemed to be substantially equivalent to the requirements set forth section 11.5(a).

At this writing, the proposed statutory changes have not been amended into pending legislation, and BOA has not published notice of its intent to amend section 11.5.

• At its March meeting, BOA reviewed staff's summary of the Board's directives regarding qualifying experience since its revision of Form E in 1991 (*see above*). The summary notes that the Board's primary objective is to ensure that applicants gain experience which enables them "to demonstrate an understanding of the requirements of planning and conducting an audit with minimum supervision which results in full disclosure financial statements."

Since its revision of Form E and in response to numerous questions raised by applicants for licensure and its own Qualifications Committee, the Board has adopted several policies with respect to qualifying experience, including the following:

(1) Piecemeal experience in review and audit engagements is qualifying.

(2) Only 50 hours of financial statement experience done may be considered toward the overall experience requirement.

(3) Planning and performing audit procedures may only be done in the context of audit and review engagements.

(4) Review engagements contain elements which, if done in accordance with generally accepted accounting standards, are audit procedures which are qualifying under section 11.5(a).

(5) "Demonstration of an understanding of the planning of an engagement" must be obtained by an applicant. Evidence of experience in the planning of an engagement may include risk analysis with a memoranda in the workpaper file; work programs with evidence that risk, history, etc. were combined; or summary comments which show thought as to the nature and scope of the procedures.

(6) Analytical procedures done in the context of a review "may or may not be considered auditing procedures"—the Qualifications Committee was directed to consider this on a case-by-case basis.

(7) A review upgraded to the level of an audit in order to provide qualifying experience to an applicant constitutes qualifying experience even if the client did not request an audit and an audit report was not delivered to the client.

(8) An applicant can become licensed without ever having done an actual audit or issued an audit report.

Following a review of the summary, the Board approved the document with one additional clarification. Board President Avedick Poladian stated that, with respect to the concept of "planning" in (5) above, "an understanding of planning can be obtained other than by a person being physically present during the planning sessions of an engagement."

• At its May meeting, the Board approved the Procedure Manual of the Qualifications Committee, an internal publication which contains BOA's interpretations of section 5083 and other provisions of the Business and Professions Code relating to CPA licensure, and section 11.5 and other provisions of the CCR relating to CPA licensure. Both the Procedure Manual and Form E continue to require "not less than 500 hours of Rule 11.5 experience," while

no such requirement exists in either the Business and Professions Code or the California Code of Regulations.

BOA Adopts Changes to CE Regulations. At its May 13 meeting, BOA held a public hearing on its proposal to amend section 87.1, Title 16 of the CCR, which provides that licensees reentering public practice must complete 40 hours of continuing education (CE) in the twelve months prior to reentry. BOA's amendments would instead require licensees reentering public practice to complete 80 hours of CE in the 24 months prior to reentry. Section 87.1 also provides that, once reentered, licensees must complete 20 hours of CE for each full six-month period from the date of reentry until the next renewal date. The proposal would amend section 87.1 by stating that if the time period between the reentry date and the next renewal date is less than six full months, no additional CE is required for license renewal. BOA's proposed amendments to section 87.1 would also add a provision specifying the number of hours of CE in governmental accounting and auditing required between the reentry date and the next renewal date for licensees auditing government agencies.

At the public hearing, no comments were made on the proposed amendments; thus, BOA adopted them. At this writing, staff is preparing the rulemaking file for submission to the Office of Administrative Law (OAL).

Rulemaking Update. The following is a status update on BOA rulemaking proposals discussed in previous issues of the *Reporter*:

• On March 1, OAL approved BOA's proposed amendments to section 75.8, Title 16 of the CCR. Business and Professions Code section 5157 authorizes BOA to formulate and enforce rules governing accountancy corporations, including rules requiring that an accountancy corporation provide "adequate security by insurance or otherwise for claims against it by its clients arising out of the rendering of professional services." Section 75.8 provided that security for claims against an accountancy corporation must consist of a written agreement of the shareholders that they jointly and severally guarantee payment of the corporation's liabilities. As amended, section 75.8 gives accountancy corporations the option of providing for security for claims either by maintaining insurance in specified minimum amounts or by signing the written agreement of joint and several liability. *[14:1 CRLR 27]*

• On March 14, OAL approved BOA's amendments to sections 6 and 7, Title 16 of the CCR. As amended, section 6 no longer refers to May and November Uniform CPA Examination dates and March 1 and September 1 filing dates, in order to provide the Board with greater flexibility regarding the dates for giving the CPA exam; among other things, the amendments also repeal a provision regarding reasonable accommodation for handicapped examination candidates and add a new provision specifying that BOA will accommodate disabled examination candidates in accordance with the requirements of the Americans with Disabilities Act. The amendments to section 7, which governs the granting of conditional examination credit if a candidate passes the Uniform CPA Examination in two or more subjects or in the "single subject of accounting practice," deletes the reference to the "single subject of accounting practice," because 1994 revisions to the Uniform CPA exam have changed the name of the section formerly called "accounting practice." *[14:1 CRLR 28; 13:4 CRLR 28]*

LEGISLATION

SB 2038 (McCorquodale), as amended May 18, would (among other things) reduce the size of BOA from eight licensees and four public members to six licensees (five CPAs and one PA) and three public members (*see* MAJOR PROJECTS). *[S. Appr]*

SB 2036 (McCorquodale), as amended May 18, would create a "sunset" review process for occupational licensing agencies within the Department of Consumer Affairs (DCA), requiring each to be comprehensively reviewed every four years. SB 2036 would impose an initial "sunset" date of July 1, 1997 for BOA; create a Joint Legislative Sunset Review Committee within the legislature, which would review BOA's performance approximately one year prior to its sunset date; and specify 11 categories of criteria under which BOA's performance will be evaluated. Following review of the agency and a public hearing, the Committee would make recommendations to the legislature on whether BOA should be abolished, restructured, or redirected in terms of its statutory authority and priorities. The legislature may then either allow the sunset date to pass (in which case BOA would cease to exist and its powers and duties would transfer to DCA) or pass legislation extending the sunset date for another four years. (*See* agency report on DCA for related discussion of the "sunset" concept.) *[S. Appr]*

SB 2079 (Campbell). Existing law authorizes BOA to, among other things, examine all applicants for the certificate of certified public accountant. As amended April 18, this Board-sponsored bill would, instead, refer to the licensure of CPAs, and make related changes. The bill would also revise various license requirements, reciprocity provisions, examination provisions, and procedures; and delete a provision which authorizes BOA to adopt regulations providing for the forfeiture of such part of the applicant's examination or reexamination fee as is commensurate with the cost of providing examination facilities if he/she fails to appear for examination after being scheduled and notified. During the summer, the Board may attempt to insert proposed legislative changes relating to its experience requirement (*see* MAJOR PROJECTS) into SB 2079. *[A. CPGE&ED]*

The following is a status update on bills reported in detail in CRLR Vol. 14, No. 1 (Winter 1994) at pages 28–29:

AB 1754 (Frazee), as amended March 8, authorizes BOA to contract with and employ CPAs and PAs as consultants and experts to assist in its enforcement program, as specified; provides that if a person, not a regular employee of BOA, is hired or under contract to provide expertise to BOA in the evaluation of the conduct of a licensee, and that person is named as a defendant in a civil action directly resulting from opinions rendered to the Board, BOA shall provide legal representation and indemnify that person; provides that this right of defense and indemnification shall be the same as, and no greater than, the right provided to a public employee, as specified; and requires BOA to report annually to the legislature regarding these contracts. This bill, which declares that it is to take effect immediately as an urgency statute, was signed by the Governor on April 19 (Chapter 44, Statutes of 1994).

AB 1807 (Bronshvag), as amended March 23, deletes the existing requirement that at least one member of BOA's Continuing Education Committee be a licensed PA under specified circumstances.

AB 1807 also authorizes BOA to issue citations if, upon investigation, the Board has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services without being properly licensed, and to require the violator to cease the unlawful advertising. This bill also revises the educational requirements for an applicant for admission to the examination for a CPA certificate, to require applicants who do not have a baccalaureate degree from a four-year institution in accounting or a related subject to have completed at least ten semester hours or the equivalent in accounting subjects at a college-level institution. This bill was signed by the

Governor on March 30 (Chapter 26, Statutes of 1994).

AB 1392 (Speier), as amended July 1, 1993, would—among other things—provide that BOA's executive officer is to be appointed by the Governor, subject to Senate confirmation, and that the Board's executive officer and employees are under the control of the DCA Director. *[S. B&P]*

SB 1111 (Ayala), as amended April 12, 1993, would require each accountancy corporation to renew its permit to practice biennially and to pay the renewal fee fixed by BOA, as specified; the bill would also make related changes. Existing law requires each accountancy corporation to file with BOA a report pertaining to qualification and compliance with statutes and regulations, as specified, and to pay a fee for filing this report. This bill would delete the fee requirement for that report. *[A. CPGE&ED]*

The following bills died in committee: **SB 308 (Craven)**, which would have provided an unspecified definition of the word "temporarily" for purposes of Business and Professions Code section 5050; and **AB 719 (Horcher)**, which would have required the written CPA examination to include the rules of professional conduct and the provisions of existing law relating to the practice of accountancy.

LITIGATION

On February 8, Shaun Carberry filed ***Carberry v. California State Board of Accountancy***, No. A064735 (First District Court of Appeal), in which he appeals the superior court's dismissal of his action against BOA. In this case, enrolled agent Shaun Carberry challenges BOA's March 1993 cease and desist letter ordering him to change the name of his business, Citizens Accounting & Tax Service, as violative of the California Supreme Court's decision in *Bonnie Moore, et al. v. State Board of Accountancy*, 2 Cal. 4th 999 (1992). Carberry uses the business name in conjunction with his own name and professional designation, *i.e.*, "Shaun Carberry, EA." Carberry claims that his actions comply with the *Moore* ruling, which permits non-CPA accountants to use the term "accounting" to describe their services so long as that use is accompanied by a disclaimer or other explanation that the practitioner is not licensed by the state or that the services provided do not require a state license. However, BOA argued that Carberry's use of the term "EA" does not explain that he is not licensed by the state or that the services he provides do not require a state license; the court sustained BOA's demurrer without explanation. *[14:1 CRLR 29]*

On appeal, Carberry contends that his use of the acronym "EA" discloses the fact that he is not a CPA and thus provides the explanation required by *Moore*; he also argues that because BOA has not formally adopted regulatory revisions defining ways in which non-CPA accountants may comply with the *Moore* decision, BOA is engaging in "underground rulemaking" by enforcing requirements which have not been adopted in compliance with the Administrative Procedure Act. At this writing, BOA has not yet filed a response.

In a related matter, the U.S. Supreme Court heard argument on April 19 in ***Ibanez v. Florida Dep't of Professional Regulation Board of Accountancy***, No. 93-639, concerning attorney Silvia Ibanez's use of the term "CPA" on her business cards, letterhead, and telephone book listings in describing her tax law firm. Ibanez is a solo practitioner specializing in tax law; she is also a licensed CPA, although she does not audit, the only function which rests exclusively with CPAs. The Florida Board of Accountancy reprimanded Ibanez for referring to her status as a CPA, contending (among other things) that her use of the term "CPA" misleads the public into thinking that her law firm is also a CPA firm. Ibanez contends that state's ban on her truthful use of the appellation violates her commercial speech rights under the First Amendment, and that the effect of the Board's action is a "ban on professionals disclosing and advertising their credentials and skills, all to the detriment of the public." At this writing, the Supreme Court has not released its decision.

On May 4, BOA filed an accusation against Arthur Andersen & Company, in which the Board contends that the firm negligently performed audit work in connection with Lincoln Savings & Loan, A&B Loan Company, and Grand Wilshire Chevrolet; BOA is asking that the firm's license be revoked or suspended. The Board's case against Arthur Andersen is expected to be heard by an administrative law judge in November. In the meantime, Arthur Andersen responded by filing a lawsuit in Los Angeles County Superior Court against BOA, alleging misconduct by BOA in its investigation and contending that the Board's attorneys leaked information to other attorneys who then filed a class action against the accounting firm. In ***Arthur Andersen & Company v. State Board of Accountancy***, No. BC 104934, Arthur Andersen contends that in December 1993, following prolonged negotiations with BOA, the firm agreed to pay the Board $625,000, equal to the cost of the Board's investigation into the firm's audit of Lincoln. In March, the Board notified Arthur Andersen that it had to pay $2.375 million to resolve the remaining two investigations or risk losing its license; according to Arthur Andersen, the Board's cost of conducting those investigations was only $550,000. However, the state Attorney General's Office contends that in the context of a settlement, the state is not limited to recouping its actual costs, and may accept any amount greater than that.

RECENT MEETINGS

At its January 28 meeting, the Board adopted a new policy for accommodating exam candidates with disabilities. Under the Americans with Disabilities Act, BOA is responsible for providing appropriate and effective accommodations, including auxiliary aids, to qualified exam candidates with disabilities. The policy adopted by BOA sets forth the requirements the applicant must satisfy to be provided with special accommodations. For example, the policy states that if a candidate seeks an accommodation, the candidate must make a request which includes documentation of the need for accommodation by the application deadline established for all applicants. Once the Board has received documentation of the disability, it will review the file; if BOA rejects the request for accommodation, the candidate will be provided with the reasons for that denial and may appeal the denial.

Also at the January meeting, BOA adopted a policy providing that its secretary-treasurer position shall have a term limit of eight one-year terms. This policy will go into effect on January 1, 1995, at which time the Board will determine how long the current secretary-treasurer has held the position; his limit will be no more than twelve years.

At its March 19 meeting, BOA adopted a policy recommended by its Enforcement Program Management Committee with regard to the release of information prior to the filing of an accusation. Under the new policy, except where an accusation or statement of issues has been filed, agendas, meeting notices, or other public documents of the Board and its committees shall identify enforcement matters solely by case number or investigation number.

In March, the Board relocated its offices to 2000 Evergreen Street, Suite 250, Sacramento, CA 95815-3832.

FUTURE MEETINGS

July 29–30 in San Diego.
September 30–October 1 in San Francisco.