

REGULATORY AGENCY ACTION



STATE & CONSUMER SERVICES AGENCY

(Department of Consumer Affairs)

BOARD OF ACCOUNTANCY

Executive Officer: Carol Sigmann
(916) 920-7121

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 50,000 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 (six CPAs and two PAs), and four public members. Each Board member serves a four-year term and receives no compensation other than expenses incurred for Board activities.

The Board's staff administers and processes the nationally standardized CPA examination, a four-part exam encompassing the categories of Audit, Law, Theory, and combined sections Practice I and II. Applicants must successfully complete all four parts of the exam and 500 hours of qualifying auditing work experience in order to be licensed. Approximately 20,000 examination applications are processed each year. Under certain circumstances, an applicant may repeat only the failed sections of the exam rather than the entire exam. BOA receives approximately 4,000 applications for licensure per year; approximately 75% of these applicants are issued licenses.

The current Board officers are President Jack Kazanjian, Vice President Ira Landis, and Secretary/Treasurer Jeffery Martin.

At a special meeting on November 29, BOA selected Carol Sigmann as its new Executive Officer. Sigmann was

formerly the Executive Officer of the Board of Podiatric Medicine.

MAJOR PROJECTS:

Board Files Accusations Against Former Lincoln Savings and Loan Auditors. In early December, BOA announced that it has filed an accusation seeking to revoke or suspend the California license of Ernst & Young, one of the nation's largest accounting firms, as well as Arthur Young & Co. and Francis J. O'Brien, for alleged gross negligence in audits of Irvine-based Lincoln Savings & Loan and its parent company, American Continental Corporation. The accusation, the most serious ever brought against a major accounting firm by the agency, charges that the firms' gross negligence resulted in reliance by small investors on faulty financial statements in purchasing approximately \$200 million in now-worthless American Continental bonds at Lincoln branches in southern California. (See CRLR Vol. 10, No. 1 (Winter 1990) pp. 113-14 and Vol. 9, No. 4 (Fall 1989) p. 100 for background information on the Lincoln scandal.)

Ernst & Young, which has 25,000 employees and partners in 118 offices nationwide and had an annual revenue of \$2.2 billion last year, resulted from a recent merger between Arthur Young & Co. and Ernst & Whinney. The basis of BOA's accusation is Arthur Young's unqualified opinion that American Continental's and Lincoln's financial statements for 1987 "fairly represented" their financial condition.

150-Hour Education Task Force. In October, the Board's special task force considering the imposition of additional academic requirements for CPA licensure recommended that BOA adopt a 150-hour education requirement. (See CRLR Vol. 10, No. 4 (Winter 1990) p. 50 for background information.) In November, the Board approved this recommendation and referred it to its Legislation Committee, which is reviewing the proposal for submission to the legislature. This proposal would increase the Board's education requirement to 150 semester hours of college education,

including a baccalaureate or higher degree from a regionally or nationally accredited institution acceptable to BOA.

Proposed Regulations. After a public hearing at its November 16 meeting, the Board adopted the following proposed changes to its regulations in Division 1, Title 16 of the CCR:

- an amendment to section 5.1 to comply with the Permit Reform Act of 1981 (Government Code section 15374 *et seq.*);

- an amendment to section 11.5 to require applicants whose accounting experience is obtained outside the United States and its territories to appear before the Qualifications Committee and present work papers substantiating that their experience meets the requirements of Rule 11.5 and the Generally Accepted Accounting Standards. Alternatively, the applicant may acquire one year of U.S. public accounting experience or its equivalent, which meets the requirements of Rule 11.5 and the Accountancy Act;

- an amendment to section 67 to enable BOA to charge a fee for registration of a fictitious name;

- an amendment to section 75.8, which currently provides that security for claims against an accountancy corporation by clients or others shall consist of a written agreement of the shareholders that they shall jointly and severally guarantee payment by the corporation of liabilities imposed upon it by law for damages arising out of all claims against it by its clients and others. The proposed amendment would delete the words "or others" from section 75.8, and require an executed original of the written agreement to be furnished to the Board; and

- an amendment to section 95.2, to include violations of Business and Professions Code section 5100(a)-(g) as bases for citations and fines. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 50-51 for background information on these changes.)

BOA is currently preparing the rule-making file on these changes, which will be submitted to the Office of Administrative Law (OAL) for approval.

Update on Other Regulatory Changes. In July, OAL disapproved two of BOA's proposed regulatory changes: its adoption of new section 87.2, which significantly increases the number of continuing education (CE) hours required of "reentry applicants" after January 1, 1991, and its amendment of section 89, which requires accountants to maintain records of compliance with CE requirements; deletes a provision requiring BOA to give accountants



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notice and an opportunity to correct deficiencies when it determines that CE requirements have not been satisfied; adds an additional item to be maintained as a record; and adds a disciplinary provision for willful, false, or misleading statements concerning CE. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 51 for background information.)

BOA amended its proposed regulatory changes, released the revised proposals for public comment on October 11, and subsequently submitted the revised rulemaking package to OAL. On December 10, OAL approved amended section 89, and on December 13 OAL approved new section 87.2.

LITIGATION:

On October 18, the California Supreme Court unanimously granted Bonnie Moore's petition for review in *Bonnie Moore v. State Board of Accountancy*, 222 Cal. App. 3d 919, 272 Cal. Rptr. 108 (1990), in which Moore challenges the validity of a BOA rule prohibiting unlicensed accountants legally practicing accountancy from using the terms "accountant" or "accounting" in their advertising. (See *supra* COMMENTARY; see also CRLR Vol. 10, No. 4 (Fall 1990) p. 51; Vol. 10, No. 1 (Winter 1990) p. 53; and Vol. 9, No. 4 (Fall 1989) p. 42. for detailed background information on this case.)

Moore filed her opening brief with the court on November 16, and BOA's counsel filed its opening brief on December 19. The Center for Public Interest Law and the California Society of Enrolled Agents each petitioned the Court to file *amici curiae* briefs in support of Moore; both motions were opposed by the Board's counsel. However, on December 13, the Court overruled the Board's objections and granted both petitions. The *amici* briefs were due by January 11, and any answer thereto was to be served and filed by January 31.

FUTURE MEETINGS:

March 23 in Los Angeles.

May 17-18 in Sacramento.

BOARD OF ARCHITECTURAL EXAMINERS

Executive Officer: Stephen P. Sands
(916) 445-3393

The Board of Architectural Examiners (BAE) was established by the legislature in 1901. BAE establishes minimum professional qualifications and performance standards for admission to and practice of the profession of archi-

ture through its administration of the Architects Practice Act, Business and Professions Code section 5500 *et seq.* The Board's regulations are found in Division 2, Title 16 of the California Code of Regulations (CCR). Duties of the Board include administration of the Architect Registration Examination (ARE) of the National Council of Architectural Registration Boards (NCARB), and enforcement of the Board's statutes and regulations. To become licensed as an architect, a candidate must successfully complete a written and oral examination, and provide evidence of at least eight years of relevant education and experience. BAE is a ten-member body evenly divided between architects and public members. Three public members and the five architects are appointed by the Governor. The Senate Rules Committee and the Speaker of the Assembly each appoint a public member.

MAJOR PROJECTS:

Regulatory Changes. BAE's proposed amendments to sections 121 and 124, Chapter 2, Title 16 of the CCR, were submitted to the Office of Administrative Law (OAL) on November 29 and were approved by OAL on December 18. The amendment to section 121 deletes the requirement that a candidate who fails in three attempts to pass the graphic building and/or site design oral assessment interview take the appropriate graphic design examination. The amendment to section 124 eliminates the requirement that a candidate bring photographs of completed work to an oral examination, and revises the scoring method for the oral examination from pass/fail by individual exam section to pass/fail for the oral exam as a whole. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 52 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 67 for background information.)

BAE's proposed amendments to section 125, Title 16 of the CCR, were approved by OAL on October 31. These amendments delete the appeal procedures for the graphic site design division of the licensing exam, specify the appeal procedures and deadlines for the graphic building design division of the licensing exam, and delete the provisions which allow for appeals on the content or format of the licensing exam. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 52 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 67 for background information.)

At its September 14 meeting, BAE agreed to publish a notice of proposed changes to section 134, Chapter 2, Title 16 of the CCR, in an effort to ensure that its advertising provisions concerning

architectural business names for partnerships are consistent with similar provisions relating to business names for corporations and sole proprietorships. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 52 for background information.) BAE held a public hearing on this proposed amendment on December 13. No oral or written testimony was received by the noticed deadline. BAE was scheduled to vote on the adoption of the proposed change at its January 18 meeting.

Implementation of AB 1005 Stamp Requirement. Effective January 1, 1991, architects are required to affix a stamp authorized by BAE to all plans, specifications, and other instruments of service when submitting them to a governmental entity for approval or issuance of a permit. Under the provisions of AB 1005 (Frazee) (Chapter 94, Statutes of 1990), the stamp must bear the licensee's name, his/her license number, the legend "licensed architect," and the legend "State of California," and the stamp must provide a means of indicating the renewal date of the license. BAE expects the stamping of such documents will assist in assuring the public that all licensees have had proper education and training and have passed examinations which demonstrate their basic level of competence. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 68 for background information on AB 1005.)

Because AB 1005 did not specify the stamp's design features, BAE has proposed the adoption of section 136, Division 2, Title 16 of the CCR, for the purpose of providing specific language describing the size, shape, and type of stamp. BAE held a public hearing concerning this matter on December 13, and the Board was scheduled to vote on the proposed adoption of the new regulation at its January 18 meeting.

FUTURE MEETINGS:

To be announced.

ATHLETIC COMMISSION

Executive Officer: Ken Gray
(916) 920-7300

The Athletic Commission is empowered to regulate amateur and professional boxing and contact karate under the Boxing Act (Business and Professions Code section 18600 *et seq.*). The Commission's regulations are found in Division 2, Title 4 of the California Code of Regulations (CCR). The Commission consists of eight members each serving four-year terms. All eight members are