

# REGULATORY AGENCY ACTION



## STATE & CONSUMER SERVICES AGENCY (Department of Consumer Affairs)

### BOARD OF ACCOUNTANCY

Executive Officer: Della Bousquet  
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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. 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, Chapter 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; only 3% of this population passes the entire four-part exam during the first sitting. 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.

### MAJOR PROJECTS:

*Certification Requirements.* The Board continues in its attempts to revamp its current Form E. All Form E "Certificate of Experience" requirements must be satisfied by all persons applying for CPA licensure from the Board. The term "Form E requirements" refers to the 500-hour audit experience standard (also known as the "Rule 11.5 requirement") and the additional seventeen experience standards listed on the Board's Form E—all of which must be completed before a CPA candidate will be licensed by BOA. The Board and the California Society of Certified Public Accountants (CSCPA) agree that the current requirements are too rigid and recognize the fact that the total volume of true auditing work available in the state is inadequate to supply most prospective California CPAs with little if any auditing work. However, key issues regarding the Form E requirements are hotly contested, and ultimate modification of the current Form E continues to be an agonizing and drawn-out process. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 40; Vol. 9, No. 3 (Summer 1989) p. 43; and Vol. 9, No. 2 (Spring 1989) p. 36 for background information.)

Board member Tom Orr presented his sixth draft ("Draft 6") of the proposed new Form E at the Board's November 17 meeting in Palm Springs. This proposed Form E would require applicants to "demonstrate the ability to perform an audit." In contrast, under existing Form E, applicants must "demonstrate satisfactory knowledge" of the seventeen selected procedures mentioned above. The present 500-hour audit experience requirement would be retained under Draft 6, but the guidelines governing the exact nature and content of this experience would be liberalized. The existing and draft Form Es agree in permitting "piecemeal" work experience to add cumulatively to the 500 hours of audit experience (provided, that is, that such work is not completely disjointed, but rather, "demonstrat[es]

the ability to coordinate all the elements of an audit"); Draft 6 would also permit a broader range of work to qualify as "auditing" experience than the current Form E allows. Lastly, the present seventeen-item checklist appearing on the back of Form E, which tests for experience in a variety of basic procedures involved in audits, would be transformed into a set of only nine procedures; this condensed list of procedures would be removed to the list of instructions/questions which must be answered by the licensee(s) who sign(s) the form on behalf of the applicant, attesting to the applicant's experience.

The most controversial issue concerns the Draft 6 requirement that the applicant "demonstrate the ability to perform an audit." At the November meeting, Mr. Orr qualified this term to mean that the candidate need only possess the ability to perform an audit; the applicant need not have already completed one full and integrated audit. However, this definition begs the question of how the applicant must manifest or demonstrate this ability. Undoubtedly, the current seventeen-item checklist of auditing procedures, even if transformed into nine sets of procedures appearing in the guidelines and instructions of the proposed Form E, will provide the definitive test to check for this ability.

CSCPA objects to Draft 6, arguing that the difference between the existing Form E and Draft 6 is in form only, and that Draft 6 contains the same rigid standards of the present Form E because it requires the applicant to prove experience in a given hierarchy of auditing procedures. CSCPA notes that the present movement to modify Form E was prompted by the scarcity of true auditing opportunities in which the CPA applicant could apply such textbook cases of auditing procedures. In a six-point critique of Draft 6 presented at BOA's November 17 meeting, CSCPA representatives therefore suggested that Draft 6 rid itself altogether of any reference to the nine auditing procedures; CSCPA's sixth point suggests that Form E include the following statement: "Procedures that qualify are not limited to those spelled out in the Form E instructions nor is any particular number of listed steps required." CSCPA's critique also suggested that the phrase "ability to perform and understand basic audit procedures" should replace the Draft 6 language, "perform an audit."

The remaining four suggestions of CSCPA's six-point critique suggest that



the proposed Form E: (i) require only "participation" in the preparation of full disclosure financial statements; (ii) define "audit" to include all attestation services; (iii) acknowledge that the candidate may achieve adequate qualifying experience in 500 hours, in one or more engagements, in one or more specialized industries; and (iv) not necessarily require that the candidate demonstrate experience in all basic auditing elements.

At the November meeting, CSCPA and other segments of the professional community went so far as to warn the Board that many firms or disenfranchised candidates would press litigation against the Board if liberalization of the Form E requirements did not proceed as suggested. Furthermore, CSCPA informed the Board that its agenda includes the potential legislative repeal of Board Rules 11.5 and 69 (which governs the instructions and criteria for the licensee who signs and qualifies the Form E on behalf of the applicant) if the Board fails to redraft the new Form E in agreement with CSCPA's six suggestions.

At the same meeting, Mr. Hansen, a senior partner at Arthur Andersen and speaking on behalf of major firms in general, stated that Arthur Andersen is "not prepared to continue with the existing situation." Mr. Hansen stated that Arthur Andersen considers CSCPA's proposed version of Form E the minimum acceptable level of liberalization of the Form E requirements, and will not endorse Draft 6 unless the Board guarantees that the nine questions contained within the instructions will be treated as aspirational points of achievement rather than required procedures.

Very large firms such as Arthur Andersen want liberal entrance requirements into the profession because they seek the ability to elevate many of their key partners to the status of CPA; many of these partners are tax specialists and finance/management experts who possess little or no auditing experience. However, independent CPAs and small CPA firms oppose the trend toward relaxing the standard of auditing experience; they assert that experience in auditing is the definitive standard of their profession, and that any relaxation of that standard would simultaneously damage the integrity of their practice as well as unduly flood the market with too many competitors. Thus, in direct contradiction to the position taken by

Arthur Andersen, CPA E. Eileen Duddy submitted a letter protesting the Board's latest attempt to ease and modify the existing Form E requirements.

Regardless of these heated testimonies, the Board refused to adopt CSCPA's six proposals. Pursuant to a motion advanced by Mr. Orr, the Board acted to redraft the proposed Form E yet another time, retaining the requirements that applicants "demonstrate the ability to perform an audit" with minimum supervision and obtain 500 hours of Rule 11.5 experience. However, under a suggestion made by Board member Landis, Mr. Orr stated that he would attempt to define such key terms as "basic audit procedures" in an attempt to resolve some of the questions provoked by the debate, and in order to directly answer the critical charge (espoused particularly by Mr. Hansen) that the existing and Draft 6 Form Es are highly subjective and are not based on or rooted in any measurable, concrete standards upon which an applicant and qualifying licensee may fairly rely.

The next draft of the proposed Form E was scheduled for presentation to the Board at its February 13 meeting, at which time the Board was expected to adopt it as the final draft. Once a new Form E is finally agreed upon, it still may be subject to rulemaking procedures before it may be implemented, especially if new Form E requires modification of Rule 11.5 (in order to liberalize the definition of "audit") or any other rule.

*Reentry Requirements.* BOA also spend considerable time at its November 17 meeting attempting to revamp Rule 87(b), which currently requires "reentry applicants" (*i.e.*, licensees who have allowed their licenses to lapse beyond permitted renewal periods and who have not practiced public accountancy for several years) to have completed 40 hours of continuing education credit in the twelve-month period prior to reentry. Against the wishes of many concerned parties, including Senator Lucy Killea, the Board is presently drafting new Rules 87.1 and 87.2 to increase the 40-hour requirement to 280 hours. Opponents of the proposed change object on grounds that the new requirement would be too onerous, making it practically and economically impossible for many persons to reenter. CSCPA recommends a 120-hour requirement; the Society of California Accountants (SCA) recommends a 200-hour maxi-

mum.

After considerable debate, the Board passed a motion to amend proposed Rule 87.2 to require 40 hours for each year out of public practice, up to a maximum of 160 hours. This requirement would be implemented three years after the new regulation becomes effective. The Board further agreed that 120 of the hours would be required prior to reentry; the remaining 40 hours may be completed after reentry. Board staff must now draft the proposed regulations for Board approval, publication, and a formal comment period.

*Other Regulatory Changes.* On December 6, BOA resubmitted to the Office of Administrative Law (OAL) its revised packet of regulations which were previously rejected by OAL (on grounds that BOA failed to satisfy the necessity, clarity, consistency, and authority requirements of Government Code section 11349.1) on June 14. The packet contains proposed amendments to section 54 and adoption of new sections 54.1, 54.2, and new Article 12.5, consisting of sections 95, 95.1, 95.2, 95.3, 95.4, 95.5, and 95.6, Chapter 1, Title 16 of the CCR. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 41; Vol. 9, No. 2 (Spring 1989) p. 43; and Vol. 8, No. 2 (Spring 1988) p. 39 for background information.) These changes specify the circumstances under which confidential client information may be disclosed by licensed PAs, CPAs, BOA members, and designated persons; clarify a licensee's responsibility when responding to Board inquiries; and establish a system for issuing citations to and imposing fines on licensees who violate specified provisions of law, as well as persons who unlawfully provide services for which a license is required (section 95.6). On January 5, OAL approved these regulatory changes.

BOA staffers report that a packet containing eight proposed new and amended regulations affecting Chapter 1, Title 16 of the CCR, published last May in the *Notice Register* and considered at BOA's September meeting, will be submitted to OAL for approval by May 1990. Five of these proposals constitute amendments to sections 87 (increasing continuing education (CE) requirements), 89 (changing the reporting requirements for CE course completion), and 90 (regarding extensions of time in which to complete CE requirements), and the addition of new sections 87.1 and 87.2 (increasing CE require-



ments for reentry applicants, discussed above). The remaining three proposals—the repeal of existing section 66.1 (and substitution of existing section 75.7 in its place), the amendment of new section 66.1, and the adoption of new section 66.2—all pertain to the approval and use of fictitious names for accounting corporations. At its September 22 meeting, the Board acted to adopt all of these proposed regulatory changes, with the exception of renumbering section 75.7 and adding section 87.2 (discussed above). Additionally, the Board tentatively adopted new section 37 (relicensing without reexamination) at its September meeting, although it has not announced when further action will be taken on this item. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 41 and Vol. 9, No. 3 (Summer 1989) p. 36 for background information on these regulatory changes.)

## LEGISLATION:

At its November meeting, the Board announced that it has no plans to sponsor legislation during 1990.

The following is a status update on measures reported in CRLR Vol. 9, No. 4 (Fall 1989) at page 41:

*AB 1336 (Eastin)*, which would amend the Board's CE requirements, is pending in the Senate Business and Professions Committee.

*SB 465 (Montoya)*, which would change existing statutes on appeal procedures to gender-neutral language, is pending in the Senate Rules Committee.

*SB 1496 (McCorquodale)*, which would have permitted payment to and acceptance of commissions by Board licensees in limited situations, was dropped by its author.

*AB 459 (Frizzelle)*, which would have provided that a previously licensed individual may renew his/her license at any time after license expiration upon payment of the applicable fees and satisfaction of CE requirements, was dropped by its author.

## LITIGATION:

Briefing is drawing to a conclusion in *Moore v. California State Board of Accountancy*, No. A046279 (First District Court of Appeal), in which plaintiffs-appellants challenge the validity of the Board's Regulation 2, which prohibits persons not licensed by BOA from using the terms "accountant" or "accounting" in their titles or advertisements. (See CRLR Vol. 9, No. 4 (Fall

1989) p. 42; Vol. 9, No. 3 (Summer 1989) p. 37; Vol. 9, No. 1 (Winter 1989) p. 37; and Vol. 8, No. 2 (Spring 1988) p. 40 for background information on this case.) The appellate court has accepted *amicus curiae* briefs from the Center for Public Interest Law, the National Society of Public Accountants, and the California Society of Enrolled Agents—all on behalf of plaintiffs-appellants.

*KMG Main Hurdman*. At BOA's November 17 meeting, the Board adopted a proposed stipulation and order regarding this lengthy and protracted disciplinary proceeding. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 42; Vol. 9, No. 1 (Winter 1989) p. 37; and Vol. 8, No. 4 (Fall 1988) p. 41 for background information.) KMG, which has undergone merger and transformation during the proceeding, agreed to surrender its certificate for cancellation and was relieved from further action subject to its payment of BOA's enforcement costs totalling \$975,000. Charges against KMG's successor firm, Peat Marwick & Main, were dismissed, but the firm is subject to reporting requirements. Two individual KMG employees were disciplined; the Board imposed probation periods and CE requirements, and is requiring one of the individuals to retake the audit portion of the CPA exam.

## RECENT MEETINGS:

At its November 17 meeting, the Board announced its CPA exam statistics for fiscal year 1988-89: of 16,081 candidates, 8,040 (50%) were successful in passing two or more parts. BOA also released its fiscal year 1988-89 enforcement statistics: 10 revocations; 9 suspensions; and 9 probations. Last summer, BOA contracted MGT, a management consultant firm, to analyze and suggest improvements to BOA's enforcement program; MGT was scheduled to present its report by February 15.

On November 17, the Clearinghouse for Voluntary Accounting Services (CVAS) organization reported to the Board and requested renewed funding pursuant to Business and Professions Code section 5170 *et seq.* CVAS performs accounting services and auditing for nonprofit organizations which are unable to afford all the accounting services necessary and proper for their continued existence; over 2,000 nonprofit organizations have been served under this program. The Board acted to renew funding to CVAS for the 1990-91 fiscal

year at the near-current funding level of \$75,000. However, the statute under which CVAS is funded "sunset" on January 1, 1992; therefore, the Board indicated that it may reduce CVAS' funding next year if the legislature shows a lack of enthusiasm for continuing the program.

## FUTURE MEETINGS:

May 11-12 in Napa.  
August 3-4 in San Diego.

## 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 architecture through its administration of the Architects Practice Act, Business and Professions Code section 5500 *et seq.* The Board's regulations are found in Chapter 2, Title 16 of the California Code of Regulations (CCR). Duties of the Board include administration of the California Architect Licensing Exam (CALE) 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*. On December 4, the Office of Administrative Law (OAL) approved the Board's amendments to regulatory sections 109, 116, 119, 119.5, 121, 123, 125, and 144. These amendments delete all reference to the CALE, and facilitate BAE's administration of the Architectural Record Exam (ARE) of the National Council of Architectural Registration Boards (NCARB) beginning in 1990. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 43 and Vol. 9, No. 2 (Spring 1989) pp.