

REGULATORY AGENCY ACTION



STATE & CONSUMER SERVICES AGENCY (Department of Consumer Affairs)

BOARD OF ACCOUNTANCY

Executive Officer: Della Bousquet
(916) 920-7121

The Board of Accountancy (BOA), a twelve-member board, regulates, licenses and disciplines public accountants and certified public accountants (PAs and CPAs). Each member serves a four-year term and receives no compensation other than expenses incurred for Board activities. The Board establishes and maintains standards of qualification and conduct within the accounting profession, primarily through its power to license. It is a misdemeanor to practice accountancy without a license in California.

The Board's staff administers and processes the nationally standardized CPA examination. Approximately 16,000 applications are processed each year. Three to four thousand of these applicants successfully complete the entire exam and are licensed.

The current Board officers are President Sam Yellen, Vice President Henry Yee, and Secretary/Treasurer Jeffery Martin. On May 4, Senator Roberti, Chair of the Senate Rules Committee, appointed Joseph C. Tambe of West Covina as one of two Board public members. Mr. Tambe replaces Ralph Buon-Cristiana; his term will expire January 1, 1992.

On June 21, Governor Deukmejian appointed Walter F. Finch of Sacramento to the Board to replace Richard G. Gallup, whose term had expired. Mr. Finch is a public accountant and a member of the Society of California Accountants and the National Society of Public Accountants. His term will expire November 26, 1991.

MAJOR PROJECTS:

Regulatory Changes. BOA scheduled a November 17 hearing in San Francisco to consider the adoption of the following amendments and additions to its regulations, which appear in Chapter 1, Title 16 of the California Code of Regulations.

New section 66.1 would prohibit use of plural terms such as "and company" or "and associates" in a corporate name, unless the firm employs at least one full-time licensee and an assistant or consists of two or more licensees. A similar rule is already in effect for partnerships. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 44 for background information.)

Section 75.7 would be amended to allow the use of the term "CPA" in a corporate name if at least one shareholder is a CPA or has applied for a certificate. The remaining shareholders may be public accountants. This rule also conforms to the existing rule for partnerships.

Changes to section 87.5 would permit the Board's Administrative Committee to order a licensee to complete additional continuing education courses beyond the mandatory eighty hours every two years for minor infractions of the Business and Professions Code. Section 87.6 would permit the Positive Enforcement Committee to order specific courses within the eighty hours for similar minor infractions.

Proposed amendments to section 54 would clarify situations in which client information may be released and would require licensees to respond to Board inquiries by providing specific information within thirty days.

KMG Main Hurdman. The Board recently decided to nonadopt a proposed decision by Administrative Law Judge Ruth Aslte which recommends dismissal of charges brought by BOA against KMG Main Hurdman. According to BOA Executive Officer Della Bousquet, this is the first time any state board has attempted to discipline a major accounting firm. In March 1987, the firm merged with Peat Marwick Mitchell to form what is reported to be the world's largest accounting firm, Peat Marwick Main.

Charges of gross negligence against the firm and several individually named respondents are based on a 1985 audit of Technical Equities Corporation

(TEC). The methods used allegedly did not conform to generally accepted accounting principles and did not reveal TEC's financial instability. TEC went bankrupt in 1986, six months after the respondents issued a "clean opinion" indicating solvency. Earlier this year, Main Hurdman settled out of court with TEC investors for \$17.9 million in a private suit based on related negligence charges.

The Deputy Attorney General is prosecuting the Board's action and both parties submitted briefs on the proposed decision in August. The Board was scheduled to discuss the case in closed sessions on September 20 and October 6 before Administrative Law Judge Frank Britt.

Uniform CPA Examination. On May 25, the National Association of State Boards of Accountancy (NASBA) distributed a discussion memorandum and questionnaire to each state's Board of Accountancy, soliciting their responses to proposed changes in the Uniform CPA Examination.

The proposals, prepared by NASBA's Joint Coordinating Committee and the American Institute of Certified Public Accountants, are as follows: (a) combine the Accounting Theory and Practice sections of the exam and allocate the subjects differently; (b) change the test to an all-objective format (multiple choice, true/false); and (c) shorten the exam from two-and-one-half days to two days.

At the Board's June 29-30 meeting, BOA members expressed concern about the proposed changes and unanimously voted to follow the American Accounting Association's (AAA) opposition to the proposals. In a letter to NASBA's Joint Committee, AAA President William H. Beaver stressed the importance of non-objective testing of individual analysis and judgmental decisions. Mr. Beaver also pointed out that the current format allows a candidate to earn some credit for proper method even if the result is incorrect. In addition to AAA, approximately 70% of the state boards oppose the proposed changes.

NASBA was scheduled to consider the proposals at its regional meeting on September 25-28 in San Francisco, but is not likely to implement any changes in view of the overwhelming opposition.

Abolition of the Minority Representation Committee. In opposition to the Board's prior decision to abolish its Minority Representation Committee, Mr. Franco H. Consolacion, President of the Filipino Accountants Association,



REGULATORY AGENCY ACTION

appeared at the Board's July meeting. Associated Asian CPA Firms, Chinese for Affirmative Action, and Public Advocates have all written to the Board, expressing their interest in promoting minority rights through the committee.

The Board cited the committee's failure to "develop ongoing programs in which the Board could effectively contribute." Consolacion agreed to submit a position paper outlining specific programs and projects for a re-established committee. BOA has received the proposal and was scheduled to consider it at its October meeting.

LEGISLATION:

The following is a status update of legislation discussed in detail in CRLR Vol. 8, No. 3 (Summer 1988) at page 45:

SB 91 (Boatwright), which would have repealed the Tax Preparers Program and instead enact the Tax Practitioner Program in the Franchise Tax Board, died in the Assembly Committee on Governmental Efficiency and Consumer Protection.

SB 315 (Montoya) would have imposed specified reporting requirements on financial planners. The measure failed passage in the Assembly Committee on Finance and Insurance.

SB 422 (Montoya) would have clarified the law regarding transmittal letters and reports (see also CRLR Vol. 8, No. 1 (Winter 1988) pp. 41-42 and Vol. 7, No. 3 (Summer 1987) p. 55 for additional background information). This measure was dropped by its author.

SB 1009 (Montoya), as amended on June 22, revises section 5100 of the Business and Professions Code to allow BOA to revoke any certificate for a licensee's fiscal dishonesty or breach of fiduciary responsibility. This bill was signed by the Governor (Chapter 728, Statutes of 1988).

SB 1824 (Rosenthal) increases the maximum amount which the Board may pay a nonprofit organization controlled by licensees of the Board to provide volunteer accounting services. The previous \$65,000 annual limit is now increased to \$100,000 per year. This bill has been signed and chaptered (Chapter 455, Statutes of 1988).

SB 2553 (Keene) would have prohibited the use of the term "qualified accountant," which might be confused with "certified public accountant" or "public accountant." This bill died in the Senate Business and Professions Committee.

AB 3417 (Hughes) requires the State Controller to issue and maintain a list

of ineligible and unacceptable auditors, based on specified criteria, and prohibits school districts and county offices of education from using their audit services. This bill also provides for withholding of audit fees for audits not conforming to reporting provisions. This measure was signed by the Governor (Chapter 1351, Statutes of 1988).

AB 3818 (Bader), as amended August 29, requires the Board to establish regulations requiring specified continuing education courses in governmental accountancy and auditing for any licensee who approves audit reports of governmental agencies. This bill was signed by the Governor (Chapter 1312, Statutes of 1988).

AB 4537 (Cortese) would have fixed the biennial renewal licensing fee to boost the reserve in the Board's contingent fund to equal six months of authorized expenditures. This measure failed passage in the Senate Business and Professions Committee, and was scheduled for interim study by that committee.

LITIGATION:

Moore v. California State Board of Accountancy, No. 863037 (San Francisco Superior Court), challenging the Board's restriction on the use of the term "accountant" to licensees, was rescheduled for trial beginning October 17. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 40.)

RECENT MEETINGS:

At its May 26-28 meeting, the Board agreed that it would discourage any CPA exam review course provider representatives from attending the CPA examination. This decision resulted from a request by one course provider for permission to pass out apples or other non-promotional items to its students attending the exam.

Also at the May meeting, BOA members voted unanimously to release transcripts of invitations to appear (ITA) to respondent licensees if requested and paid for by the licensee. The Board voted to support Deputy Attorney General William Goode's action to oppose the subpoena of transcripts by a government agency acting as a civil litigant. (For background information, see CRLR Vol. 7, No. 4 (Fall 1987) p. 37.)

The ITA procedures were again discussed at the Board's July 29-30 meeting in San Diego. The Board voted to adopt interim guidelines proposed by Deputy Attorney General Grannen subject to the May agreement regarding transcript release. The new guidelines ITA would

give the Board's Administrative Committee greater flexibility than formal regulations.

FUTURE MEETINGS:

January 27-28 in Orange County.

March 18 in Los Angeles.

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 levels of competency for licensed architects and regulates the practice of architecture. Duties of the Board include administration of the California Architect Licensing Exam (CALE) and enforcement of Board guidelines. BAE is a ten-member body evenly divided between public and professional membership.

MAJOR PROJECTS:

Regulatory Changes. At its August 30 meeting, the Board adopted several changes to its regulations contained in Chapter 2, Title 16 of the California Code of Regulations (CCR). Sections 111 and 112 are new sections adopted to comply with the Permit Reform Act of 1982, which requires licensing boards to identify the time periods within which they will process applications for licensure. An amendment to section 121(a), regarding reciprocity licensure without taking the written examination, was also adopted by the Board in August. At this writing, the rulemaking packages on these sections have not yet been submitted to the Office of Administrative Law (OAL).

Also at the August meeting, the Board heard testimony by American Institute of Architects (AIA) representatives in opposition to its proposed changes to section 144, which would increase licensing fees and the cost of taking the CALE. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 46 for background information.) Based upon the testimony, the Board was scheduled to discuss section 144 again at its October 7 meeting.

The Board's changes to section 117, regarding evaluation of a candidate's experience and education and adopted by the Board at its March 29 meeting, were rejected by OAL in June for numerous reasons, including lack of clarity. (See CRLR Vol. 8, No. 3 (Sum-