

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), 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 Lee, and Secretary/Treasurer Jeffery Martin. On April 6, the Governor appointed Janice B. Wilson of Sacramento to the Board. Wilson, a CPA, replaces the late David E. Joham as an industry member. Her term will expire in November 1989.

MAJOR PROJECTS:

Regulatory Changes. On April 18, the Office of Administrative Law (OAL) disapproved the Board's proposed amendment to section 69.1, Title 16 of the California Code of Regulations (CCR), pertaining to the required appearance by a licensee before the appropriate administrative committee in professional conduct proceedings. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 39.) OAL's disapproval states that the proposed regulation failed to comply with the necessity and clarity standards of Government Code section 11349.1. At this writing, the Board is considering asking OAL to reconsider its disapproval decision.

The Board is planning a November hearing on several regulatory changes, including an amendment to section 75.7, Title 16 of the CCR, concerning corporations. That amendment is intended to conform the regulation to Business and Professions Code section 5072, regarding partnerships.

BOA also plans to hear comments in November on planned amendments to section 66.1. The amended language, which will be formally proposed this summer, would provide that an accountancy corporation which has only one shareholder shall not render professional services under a firm name which includes plural terms such as "and company," "and associates," "Certified Public Accountants," or "Public Accountants," unless the corporation employs a full-time professional staff, other than the shareholder, consisting of at least one licensee and an employee or assistant, as described in section 5053 of the Business and Professions Code, or consisting of two or more licensees.

Finally, the Board's November hearing will also address proposed amendments to section 87.5, concerning imposition of additional continuing education requirements following an investigation or disciplinary hearing. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 39 for background information.)

Correction. Adopted changes to section 54 of the Board's regulations are awaiting Department of Consumer Affairs approval as of this writing. In CRLR Vol. 8, No. 2 (Spring 1988) at page 39, we erroneously reported that the section 54 amendments had been submitted to OAL. We apologize for the error. (For background information, see CRLR Vol. 8, No. 1 (Winter 1988) p. 41.)

BOA's Goals and Objectives for Fiscal Year 1988-89. The Board of Accountancy is in the process of establishing its goals and objectives for fiscal year 1988-89, pursuant to a request by the Governor through the Department of Consumer Affairs. (See CRLR Vol. 8, No. 2 (Spring

1988) p. 39 for background information.) The following is a synopsis of the goals and objectives which the Board seeks to implement.

As its first goal, the Board seeks to establish and maintain systems of education, examination, and licensure which are uniformly applied, job-related, competency-based, and administered in a manner which encourages fair competition and broad consumer choice. BOA proposes to meet this goal by setting forth various objectives, including a plan to improve timeliness and responsiveness of services to licensees, applicants, and the public by completing an examination automation project designed to streamline examination processing and provide comprehensive management information. BOA also intends to maintain experience requirements to meet the need for high standards of professional competency by approving revisions to its Procedure Manual by June 1989.

By November 1988, BOA plans to implement new exam security procedures, to ensure that the exam is administered in accordance with nationally recognized security standards. To ensure that all partners and shareholders of California partnerships and corporations are currently reviewed and eligible to practice public accounting, BOA will establish a cross-reference between partnerships and corporations, as well as individual license renewals, by March 1989.

Finally, BOA seeks to amend section 75.7, Title 16 of the CCR, concerning corporations, in order to conform the regulation to Business and Professions Code section 5072, regarding partnerships. BOA also hopes to amend section 66, Title 16 of the CCR, in order to clarify applicability to corporations. (See *supra* discussion on regulatory changes.)

The second goal of the Board is to advocate and implement educational and rehabilitative practices which will ensure licensees' continuing competency. According to the first objective, involving continuing education for all licensees practicing public accounting, the Board intends to implement additional reentry requirements for licensees who have been out of public accounting, have not completed continuing education, and are returning to practice. Second, an ongoing project of the Board will be to improve licensees' performance in the area of financial reporting by reviewing samples of licensees' reports on financial statements and providing advisory letters concerning deficiencies. Third, BOA will promulgate regulations which would grant



its administrative committees authority to impose additional continuing education requirements when warranted.

Finally, the last goal of the Board is to provide sanctions against licensees who have violated regulations. BOA's objective is to promulgate regulations for issuing fines and citations by May 1989. (See *supra* discussion on regulatory changes.) Also, the Board seeks to develop written guidelines for conducting formal and informal hearings before its administrative committees by September 1988.

LEGISLATION:

SB 2313 (Campbell), as amended April 14, would expand the definition of "public accountancy" to include persons who (1) keep books, make trial balances, or prepare statements, make audits, or prepare reports as part of client book-keeping operations; (2) prepare or sign tax returns as tax preparers; (3) prepare or provide personal financial or investment plans or services; or (4) provide management consultant services. The measure would only apply to such activities when they are performed by a CPA or PA and would not be applicable if such services are the only services provided, and the provider does not hold him/herself out to be a licensee. The measure has gone to the interim study at Senator Campbell's request.

SB 1009 (Montoya) would amend section 5100 of the Business and Professions Code to include acceptance of a commission or payment for the referral or sale of any product or service to or on behalf of a client as grounds for disciplinary action by the Board. The bill would define the term "commission" to mean any payment that is usually, but not limited to, a measurement by a percentage of the value of a product or service rendered. SB 1009 was scheduled for a June 28 Assembly vote.

SB 422 (Montoya) would state that provisions of law regulating the practice of accountancy do not prohibit an unlicensed person from attaching a transmittal letter to financial statements under specified conditions. The bill would also revise existing law by defining a "report" for purposes of provisions regarding the preparation of financial statements, and including the preparation or certification of reports on reviews and compilations, as specified, in the definition of the practice of public accountancy. (See CRLR Vol. 8, No. 1 (Winter 1988) pp. 41-42 and Vol. 7, No. 3 (Summer 1987) p. 55 for background information.) This measure was to be

heard in the Assembly on June 28.

SB 1824 (Rosenthal) proposes to increase the maximum amount which the Board of Accountancy may pay a nonprofit organization controlled by licensees of the Board to provide volunteer accounting services. The current \$65,000-per-year limit would be increased to \$100,000 per year. SB 1824 passed the Senate on May 27.

AB 3387 (Hughes) was amended on April 26, deleting all language relating to financial and compliance audits. The measure is no longer relevant to the Board of Accountancy.

AB 3417 (Hughes) would require the State Controller to issue and maintain a list of ineligible and unacceptable auditors, based on specified criteria, and would prohibit school districts and county offices of education from using their audit services. Also, this bill would provide for withholding of audit fees, as specified, for audits not conforming to reporting provisions. The measure was placed on the consent calendar on May 27, following amendment on May 12.

AB 3818 (Bader) proposes to amend section 5027 of the Business and Professions Code. Under existing law, the Board is required to adopt regulations defining the basic requirements for continuing education of CPAs and PAs. As amended May 10, this bill would require the Board to establish regulations requiring a minimum of sixteen hours of qualifying continuing education in the area of governmental accountancy and auditing for any licensee who approves financial or compliance audit reports on governmental agencies. AB 3818 passed the Assembly on May 19.

SB 2553 (Keene) would add the title "qualified accountant" and the abbreviation "QA" to the existing prohibition against any person using a specified title or abbreviation which may likely be confused with "certified public accountant," "public accountant," "CPA," or "PA". A violation of existing law is a misdemeanor. SB 2553 has been pending in Senate Business and Professions since March 3.

SB 91 (Boatwright), as amended January 11, would repeal the Tax Preparers Program, and instead enact the Tax Practitioner Program in the Franchise Tax Board. The bill remains in the Assembly Committee on Governmental Efficiency and Consumer Protection.

SB 315 (Montoya), as introduced, would have amended the Civil Code to require financial planners, as defined, to be subject to the existing licensure requirements governing investment ad-

visers. As amended on May 17, the measure no longer contains such requirements. Instead, SB 315 would impose specified reporting requirements on financial planners. Enforcement of such requirements would be a civil matter. SB 315 is pending before the Assembly Committee on Finance and Insurance.

SB 4537 (Cortese) would define as grounds for disciplinary action the imposition of a fine or penalty, or the forfeiture of fees withheld according to law, by any state governmental body or agency for negligence in the practice of public accountancy. SB 4537 would also increase certain maximum examination and licensure fees. Finally, this bill would also require the Board on and after July 1, 1989, to fix the biennial renewal fee so that, together with specified other revenues, the reserve balance in the Board's contingent fund shall be equal to approximately six months of annual authorized expenditures. SB 4537 passed the Assembly on June 9.

LITIGATION:

Moore v. California State Board of Accountancy, No. 863037 (San Francisco Superior Court), which challenges the Board's policy that unlicensed persons may not legally use the term "accounting" or "accountant" in describing themselves or their services, is still pending in the discovery phase. An August 1 trial date has been set. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 40.)

FUTURE MEETINGS:

October 7 in Fresno.

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 March 29 meeting, the Board adopted several changes to its regulations contained in Chapter 2, Title 16 of the California Code of Regulations (CCR). Section 117