

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, 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.

MAJOR PROJECTS:

Continuing Professional Education. The Board's Continuing Education Committee has been studying the suggestion that the Board adopt mandatory continuing professional education (CPE) requirements for all licensees. The Committee's report, issued in December, made the following recommendations for Board action: (1) elimination of the reentry provisions, making CPE requirements applicable to all licensees in general; (2) a requirement that licensees renewing an expired license complete accrued CPE for all prior renewal periods, not to exceed 280 hours; (3) a requirement that reissuance applicants complete specified requirements including either the CPA examination or a minimum of 80 hours of structured CPE; and (4) an exemption for retired licensees from CPE requirements if not practicing and not holding themselves out as a CPA/PA.

The Board discussed the Committee's report and recommendations at its December and January meetings. Board

President James Sullos, Jr. asked Committee Chair Dr. Alan Johnson if consideration had been given to exempting those licensees engaged in businesses unrelated to the accounting field. Dr. Johnson replied that it is the Committee's position that the CPA title grants the right to practice and requires licensees to undertake an equivalent responsibility. "Once a CPA/PA title is used," Dr. Johnson added, "the public expects a certain level of competence."

Board discussion raised several other questions on the issue, including the basic question as to whether mandatory CPE requirements for all licensees is desirable. It was suggested that the Board consider singling out certain categories of licensees for imposition of CPE requirements, such as CPAs or PAs only; those in financial or accountancy fields only; licensees in public practice; or reentries.

Concluding that the issues are too complex to handle simultaneously, the Board decided to consider reentry provisions first. At its January meeting, members resolved to form a Reentry Task Force, consisting of at least four Board members and several committee chairs. Further discussion on CPE issues was deferred pending a report from the new Task Force.

Licensing Ceremony. At the request of the Board, staff recently submitted a proposal for a semiannual ceremony for newly-licensed CPAs. (See CRLR Vol. 6, No. 4 (Fall 1986) p. 26 for background information.) The Board has determined that such ceremonies would impress upon new licensees the importance of the certificate and the achievement it represents. Members believe it will generate goodwill to honor those who have worked hard for many years to become CPAs. Additionally, the ceremonies would provide positive press for the profession and for the specially-honored ten outstanding exam candidates. The Board intends to increase the visibility of the profession and the ceremonies by inviting well-known

speakers to address those in attendance, and to use the ceremonies to reward outstanding leaders in the profession.

The Board hopes the ceremonies will provide an opportunity for associations, licensees, and groups providing services to licensees to meet the new CPAs. Another goal is to increase awareness of the role of the Board among new licensees.

The staff has recommended that the biannual ceremonies take place in late May and mid-November. Approximately 40% of new licensees are expected to attend, based on the experience of the Texas State Board of Accountancy. A zip code analysis of licensees revealed that 38% live in northern California and 60.5% live in southern California. Thus, the staff recommends a north/south alternation of ceremonies to enhance opportunities for participation. San Francisco and Los Angeles are recommended as host cities.

Funding for the ceremonies will be generated from ticket sales, sponsor booth charges, and sponsor reception fees. The budget for each ceremony is estimated to be \$55,000.

No final Board action has yet been taken on the staff report. However, approval appears likely.

LEGISLATION:

SB 91 (Boatwright) would repeal the Tax Preparer Program which regulates all tax preparers. (See *infra* agency report on TAX PREPARER PROGRAM.) Supporters of SB 91 feel that the IRS adequately regulates this profession. The Board of Accountancy is watching the progress of this bill because members feel it may raise proposals that the Board regulate tax preparers as a subset of its authority. The bill has been assigned to the Business and Professions Committee.

SB 315 (Montoya) has been resurrected from last year's session. The Department of Corporations is seeking to create a certification process for professionals holding themselves out as "financial planners." The bill would allow Board licensees who are not certified by the Department of Corporations to offer financial planning services so long as they do not advertise that expertise or call themselves "financial planners." (See CRLR Vol. 6, No. 4 (Fall 1986) p. 26.) As of this writing, the bill has yet to be assigned to committee.

SB 202 (Montoya), also being reintroduced in the current session, would establish a fund to provide malpractice



liability insurance for Board licensees and other professionals. The bill has been assigned to the Insurance and Corporations Committee.

AB 527 (Chacon), introduced February 9, would delete the Board's authority to register public accountants effective January 1, 1996.

SB 422 (Montoya), introduced February 17, would define "report" for purposes of statutory provisions regarding the preparation of financial statements.

LITIGATION:

Moore v. California State Board of Accountancy, No. 863037 (San Francisco Superior Court), is an attempt by members of the California Association of Independent Accountants (CAIA) to challenge the Board's policy that unlicensed persons may not legally use the terms "accounting" or "accountant" in describing themselves or their services. The lawsuit arises from a cease and desist letter sent by the Board to Bonnie Moore, CAIA member and Director of Accounting Center. The Board contends that its position is supported by *People v. Hill*, 166 Cal. App. 3d 320 (1977), which held that the use of the terms "accountant" or "accounting" by unlicensed persons in advertising their services, as a matter of law, constitutes false and misleading advertising. The *Hill* court stated that such use misleads the public into believing that such persons are actual licensees of the state "skilled in the practice of accounting." The court ruled that such use also constitutes unfair competition in that it causes unlicensed persons to appear equally qualified with licensed public accountants and certified public accountants.

The Board has filed a cross-complaint for injunction, civil penalties, restitution, and other equitable relief.

RECENT MEETINGS:

At its January 30-31 meeting in Los Angeles, the Board spent considerable time reviewing the ethics portion of the current certification exam. At present, the Board administers an exam which is prepared by a national foundation and which is administered in many other states. The Board is concerned that the exam does not test prospective licensees on specific California regulations regarding professional standards of conduct. A suggestion has been made that the Board write and administer its own ethics portion to correct this omission in the certification process.

Recognizing the need to raise licensee awareness of these professional standards, the Board considered several proposals to revise the ethics testing requirements. Members decided that the first step is to design a California ethics exam for initial certification. This proposal was referred to the Board's Qualifications Committee for further action.

Additionally, the Board deferred consideration of renewal testing until after the number of violations exposed by proposed Rule 89.1 are determined. Rule 89.1 would require licensees to submit, upon request, a self-selected sample of reports issued during the previous calendar year. It also provides for remedial renewal requirements in appropriate cases. The effects of Rule 89.1, if adopted, will determine whether future Board action is desirable to institute testing on ethics issues as a prerequisite to license renewal. The Board is unsure at this time whether it has the authority to require such testing.

FUTURE MEETINGS:

May 29-30 in Los Angeles.
 July 31-August 1 in Monterey or Sausalito.
 October 9-10 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 an annual architectural examination and enforcement of Board guidelines. BAE is a ten-member body evenly divided between public and professional membership.

At its January 22 meeting, BAE elected its 1987 officers: President Paul Neel, Vice-President Robert DePietro, and Secretary Merlyn Isaak.

MAJOR PROJECTS:

California Architect Licensing Exam (CALE). The preparation of BAE's new licensing exam, scheduled for its first administration in July 1987, continues. Panels of three to eight licensed architects, in conjunction with vendor CTB/McGraw-Hill, have been drafting each of the nine separate exam sections. Regulations and procedures have been

revised. New application material is being prepared. Exam dates have been set, and test facilities have been reserved.

So far, BAE is pleased with the progress made in developing the new exam. This year, over 5,000 applicants are expected to take the licensing test.

Reciprocity. Because California and all other states have previously used the Architects' Licensing Examination provided by the National Council of Architectural Registration Boards (NCARB), reciprocity arrangements have been fairly simple. However, reciprocity issues are becoming increasingly complex, and California's administration of the new CALE may further cloud reciprocity decisions. Although no major difficulties concerning reciprocity have surfaced yet, BAE's creation of its own exam has distinguished it from other state licensing boards.

Of crucial importance at this time is BAE's relationship with NCARB. Because NCARB administers the test in other states, cooperation with NCARB facilitates cooperation with other states. BAE is currently working to establish a cooperative dialogue with NCARB. Historically, BAE and NCARB have had poor working relations (see CRLR Vol. 5, No. 4 (Fall 1985) p. 20). BAE's decision to break away from NCARB and create its own exam was based on its desire for more control over test administration and grading (see CRLR Vol. 6, No. 2 (Spring 1986) p. 34). When BAE first announced its decision, animosity was high; communication channels, however, have been opened. BAE President Paul Neel and NCARB President Robert Tessier have contacted one another to establish a plan of renewed cooperation. Both BAE and NCARB have appointed task forces to develop long-range plans. BAE member Lawrence Chaffin, Jr. and BAE Executive Director Steve Sands have been appointed to NCARB committees. Presently, BAE is optimistic about developing closer ties with NCARB.

In fact, the real impediments to reciprocity, according to a recent BAE newsletter, are the intern development programs required by some states and/or the accredited degree requirements of some states. A BAE task force is currently looking into the issues associated with intern development programs. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 33.)

Future Regulations. The Board expects four regulatory packages to be implemented in 1987. The first package implements BAE's citation program, and has been approved by the Office of