

Minutes of the South Carolina Board of Accountancy
Thursday, December 11, 2008, at 9AM in Room 108 (Board Meeting)
Synergy Office Park, Kingstree Building, 110 Centerview Drive
Columbia, South Carolina

Donald H. Burkett, CPA, Chair, called the Board Meeting of the South Carolina Board of Accountancy to order on December 11, 2008, at 9:00 a.m., with a quorum present. Other Board members present were Mark T. Hobbs, CPA, Bobby R Creech, Jr., CPA, John Camp, CPA, Anthony Callander, CPA, Malane Pike, Esq, and Gary F. Forte, CIMC.

Staff members participating in the meeting included: Randy Bryant, LLR Assistant Deputy Director, Michael R. Teague, Administrative Assistant, and Amy Holleman, Administrative Specialist.

The Board excused the absence of Wendell Lunsford, Accounting Practitioner, from the Board meeting based on a previously arranged engagement.

Guests in attendance were Reva Brennan from the SC Association of CPA's (SCACPA), Gale Bell, representing the SC Society of Accountants, Frank Sheheen from the Recovering Professional Program, Katherine Kip, and Dan Fritze from Nelson Mullins representing Dow Lohnes Price Tax Consulting Group, LLC.

The Chair announced the meeting was held in accordance with Section 30-4-80 of the South Carolina Freedom of Information Act by notice mailed to The State Newspaper, Associated Press, WIS-TV, and all other requesting persons, organizations, or news media. In addition, Board Staff posted notice on the bulletin board at the main entrance of the Kingstree Building.

The Board observed a moment of silence after which Mark Hobbs led all present in the Pledge of Allegiance.

1. On motion by Bobby Creech, seconded by Mark Hobbs, and unanimously passed, the Board amended the agenda by moving Katherine Kip's request to consider accepting similar college courses to the beginning of the agenda.
2. On motion by John Camp, seconded by Mark Hobbs, and unanimously passed, the Board amended the minutes of the meeting held on September 24, 2008 regarding the question to Barbara Derrick concerning amending the budget, Mr Camp stated that her answer was no versus what was captured in the minutes.

John Camp asked why changes to the expiration date of licenses and the exclusion of one year's worth of annual fees were made when during the September 24, 2008 Board meeting it was only discussed; no motion was made to make the changes. Randy Bryant explained to the Board that the two year license is a service to the licensees of the Board. The ability for LLR to issue the two year license is within Section 40-1 of the engine bill. The Accountancy Board account has a surplus, so LLR felt that it was appropriate to reduce the renewal fee for this renewal by 50%.

Malane Pike asked what authority LLR had to waive 1 years licensing fee. Mr Bryant indicated that he would get that reference for her. Ms Pike asked whose

decision was it to waive the fee. Mr Bryant stated that it was made by Adrienne Youmans, the LLR Director and the management staff of the agency. As a rebuttal he asked if there was a problem with the decisions made regarding the extension of the renewal period and the reduction of the renewal fee to which John Camp responded that he did have a problem with the changes since those changes were actually discussed at the last Board meeting as future statute changes. Then, when he received the renewal notices in the mail with the actual changes, it appeared to him that staff made the changes without regard to the Boards decisions and the proper statutory process. Since he feels the Board has no input regarding the budget, no authority to hire or fire or regulate what goes on with the Agency, no opportunity to give input to be considered by staff, and that discussion about the changes was completely ignored, the Board's status is in question.

Mr Bryant responded by highlighting that the statutory responsibility for all the Boards are: (1) Determine how someone becomes licensed. (2) How they continue to judge the competency for someone to maintain their license. (3) When someone violates the statutes, what actions are necessary for the licensee to keep his or her license. Those are the main responsibilities that any regulatory Board has in this agency. This Board does not have the right to fire staff, but the Board does have the ability to recommend three individuals for the Agency Director to consider when the Administrator slot opens.

Mr Camp indicated that he was not on the Board at the time when the new director was considered, but he remembers having that responsibility and the recommendation being ignored. As a citizen he observed what was going on and it gave him the feeling that the recommendation was ignored. He was not on the Board and did not know the discussion but said when Doris was hired, he believed, the recommendation of the Board was ignored.

Mr Bryant stated that the Agency director chose from the three recommendations given to her by the Board. The Director has the ability under the statute to take the Boards recommendation of three, choose one, or dispel all three and go back to the Board for three more. Ms Cubitt, in his opinion, was an excellent choice for this Board. Mr Camp stated that he is not criticizing Ms Cubitt, but that it makes him feel that he is wasting his time to be here and discuss things to have them totally ignored or at least not have some consultation back with the Board before decisions are finalized. For instance, that the Board received the information the same as all the licensees, through the mail in their renewal form, and there was no communication between Board staff and Board members before the action was taken, he felt, was disconcerting for the Board members. They need to be able to explain to the public why it happened and for what reason.

Mr Bryant stated that he had the same concerns. Doris and he had the same discussion about the situation, and it will not happen again. He felt that the Board should have been consulted and an effort made to alert the professional associations of the changes too.

Donny Burkett made the comment that it is in the minutes about the statutory changes. He thought that it was a request to make sure that the Board went to a biennial renewal; the Board previously discussed law changes that they hoped to be passed next year. He, as the Chair of the Board of Accountancy, was surprised when he received his renewal notice to find that the changes were already in place without the statute officially being changed, which appears the Board does not have a decision about anyway. He was concerned that the law states renewals are to be every year, and the Agency changed renewals to a biennial cycle. What position does that put the Board members in if somebody questions what the Board did? His main concern is the lack of communication back to the Board about what was being done, when, in fact, it was an issue that the Board was discussing to be submitted for the upcoming legislative calendar, and hopefully be implemented in 2010.

Mr Bryant apologized to the Board for not communicating LLR's intentions better.

Mark Hobbs suggested an improvement regarding communication by doing away with the overnight CD's of the Board meeting information and emailing the agenda and other board information. He stated that the Board already has a lot of the reference material and does not need it repeatedly, just the pertinent new information for the meeting. Michael Teague stated that most company's email servers will not allow an attachment larger than a 50MB. The agenda is created as a linked PDF which vastly exceeds the 50MB rule, so it was decided to create the CD's. Mr Hobbs suggested just sending the information relevant to the upcoming Board meeting. Mr Camp asked if it was necessary for the Board to take a vote to make sure the instructions were understood, then he went on to say that at the last meeting the Board discussed the biennial renewal and felt good about their decisions, and felt that they would have an opportunity to have some input where the Board really did not have any at all.

Mr Bryant, again, tried to put Mr Camp at ease regarding the Board's input and noted that it is his job to make sure that the communication process is always bidirectional. As to the budgetary matters, if the Board needs anything it is up to the Board to make the request through Doris or him to present to the agency.

Mr Bryant reiterated that if the Board finds it necessary to spend money on a program to help uphold their statutory responsibilities, they must make a request through Board staff to present to the agency. Mr Bryant said that Doris should have discussed the changes with them prior to their receiving it in the mail. The communication needs to be collaborative between the Board and the Agency.

Mr Hobbs asked for Mr Bryant to elaborate on how the Agency is changing the licensing methodology away from the individual boards to a centralized system. This is one of the areas that the Board gets bits and pieces of information about but never the full story. Mr Bryant explained that the 38 different Boards are either on a June 30 or December 31 renewal date. The Agency established an Office of Licensing and Compliance (OLC) to primarily process on-line renewals.

If there is a problem renewal or an issue regarding a disciplinary action or some other type of situation the renewal will fall back to Board staff to handle. For initial licensure, if it is clean application and no problems, the OLC will issue the license. The disciplinary component is a major aspect of the Board. Mr Bryant agreed with the Board and Mr Camp on the communication problem, that he shoulders the burden, and he will see that the Board is better apprised.

Ms Pike made the comment that the Powers & Duties of the Board, Section 40-2-70(3), specifically states that the Board establishes criteria for renewing licenses. The fee is part of those criteria. It appears that the Agency could not make those changes independently of the Board. It also is stated in Section 40-1-70. It appears that a unilateral action on behalf of LLR was probably inappropriate in these circumstances. Mr Bryant disagreed and referred to 40-1-40(50):

(E) Where appropriate, the director shall adopt the necessary procedures to implement the biennial renewal of authorizations to practice in a manner as to ensure that the number of renewals is reasonably evenly distributed throughout each two-year period. During any transition, fees must be proportionate to the biennial fee.

Ms Pike stated that the statute does not give the agency the right to set the biennial fee as it refers to fees be proportionate to the biennial fee. Mr Bryant indicated that the Agency Director has the ability to set the fee. He stated that he was at a loss to understand why the Board would not want to be in total support in a fee reduction for the licensees. He realizes there is a question as how it was accomplished. He believes that it is a good step in the present economic time for the fee reduction. Ms Pike questioned his reading of 40-1-50(E) and asked for his interpretation of 40-2-70, which talks about the Powers & Duties of the Board with regard to the criteria on renewal. Mr Bryant responded by stating that the criteria is based upon the continued competency of the licensee: what type of continuing education, the type of courses and what maintains continued competency to remain licensed. Ms Pikes goes on to say that the Board's interpretation of criteria is everything required to renew a license to include a fee. By reading the two statutes together the changes should have been a joint decision.

Mr Burkett added that there were minutes of the Board discussing changes of the statute and had questions whether or not the changes were legal. The Board was also deliberating on how to change the CPE requirement to fit the two year renewal period. These were issues the Board was trying to decide before the Board made a final decision in drafting changes for the statute. He was upset to find out the changes were made when he received his renewal information in the mail along with the rest of the licensees.

On motion by John Camp, to reconsider item #11 in the September 24, 2008 minutes, seconded by Mark Hobbs, and unanimously passed, as items discussed and no final action was taken at the meeting and would be further discussed at a later date. None of the items discussed were finalized.

3. John Camp made a motion, seconded by Anthony Callander, to accept Katherine Kip's application to license as they felt none of the course she took were duplicated, provided she met all the other requirements to license.

The vote was delayed to discuss with counsel the situation and to review the syllabi and course books Ms Kip brought.

On Motion by Mark Hobbs, seconded by Bobby Creech, the Board agreed, with objection from John Camp, to table the discussion and go into Executive Session to discuss Ms Kip's situation with counsel. On coming out of executive session on motion by Bobby Creech, seconded by Anthony Callander, and unanimously passed, the Chair announced that no votes were taken while in executive session.

On motion by John Camp, seconded by Anthony Callander, and unanimously passed, the Board voted, based on the additional course material, to accept Katherine Kip's two college courses in question as two separate courses to fulfill the requirements to license.

4. Mr Dan Fritze, Nelson Mullins, representing Dow Lohnes Price Tax Consulting Group, LLC (DLP) gave a brief explanation of the Letter of Comments (see attached) regarding the Notice for Drafting of Regulation 1-05, Firm Registration. He also asked for an extension.

On motion by Mark Hobbs, seconded by John Camp, and unanimously passed, the Board voted to extend the clarification time period on the ruling for DLP until June, 30, 2009.

5. Mr Frank Sheheen, Director, South Carolina Recovering Professional Program, at the request of the Board, handed out flyers (see attached) and gave an overview of the program.

The program was established to monitor professionals that are impaired with substance abuse or chemical dependencies. The professionals are monitored for a five year period and have a variety of requirements to complete. The requirements include enrollment in a self-help group and for participants to be subjected to 24 to 26 urine/drug screenings a year to ensure that substances are not in their system. The testing is contracted out. The program is currently working with the health care related boards. There are currently 517 active clients in South Carolina. The program is currently working through a Memorandum of Agreement with LLR and the Lexington/Richland Alcohol and Drug Abuse Commission. LRADAC handles the programs administration and bills LLR monthly for the expenses. 86 percent of the clients are Board referred based on an investigation, and enrollment may be from a Consent Agreement or a Board Order. The 18 percent that voluntarily enroll and asked for help remain anonymous to the Boards. The Board Administrator receives reports on those individuals that are board involved. There are some boards that are not in the programs funding. Those individuals who are monitored and are not with the

main boards pay an annual fee through LLR. For the main boards, there is an assessment to the licensure fee that funds the program. Those boards that do not have an assessment to the licensure fee then pay \$1,900 per enrollee per year. There is a minimal fee from the client to the program. The amount depends on whether or not they are currently working in their profession, several might have their license suspended or might be out of work because of their addiction. The amount ranges from \$5 to \$50. Drug testing runs about \$100 a month. Each client has a web page or an 800 number to call to find out if they must submit to a urine/drug screening test for that day. There are 184 collection sites across the state for them to go to. The other cost to the client is the initial assessment.

Mr Bryant expressed to the Board to possibly expand the program out to the professional associations. This would encourage the individual practitioner who recognizes their addiction to voluntarily enter the program and not be reported to the Board. The professional would be able to go to RPP and get help without the fear of any reprisal from the Board. Arrests would be reported to the Board. The Board would have to set standards like a second or third DUI arrest or meeting another criteria would trigger enrollment. It would be helpful to have one Board member with whom to communicate the dynamics of the program. Mr Burkett noted that John Camp of the Character & Fitness Committee would be the appropriate contact. Mr Camp remarked LLR has the authority to use the program in any profession only if the Board makes the request; however, it was pointed out earlier that the Board has no authority to tell LLR how to spend funds, rendering the Board's wishes pointless. Mr Camp said that he did not want to be the contact person for this issue.

Mr Hobbs asked if RPP is a 501(C) organization. Mr Sheheen affirmed that it is.

Mr Burkett asked for the subject to be placed on the January 2009 agenda for consideration.

6. Complaint & Investigative Activity:

A. Consent agreements and other special matters:

JAMES E. BAILEY, CPA #3725, Reinstatement Application. On motion by Mark Hobbs, seconded by Bobby Creech, and unanimously passed, the Board approved the consent agreement as presented. A copy is attached to these minutes and will be made part of the public record.

BRYAN N. DIPNER, CPA #2638, Case #2007-025. On motion by John Camp, seconded by Mark Hobbs, and passed Anthony Callander recused himself as Mr Dipner was a former employee, the Board approved the consent agreement as presented. A copy is attached to these minutes and will be made part of the public record.

B. Open Cases – Mr Bryant indicated that there are 11 open pending investigations and that the IRC did not meet this month so there are not any dismissals.

C. Dismissal Report – None

7. Information Update

A. Chair's remarks:

No Report

B. Advisory Opinions:

No Report

Legislative Update:

Ms Sharon Dantzler stated that if the Board is going to move forward with the regulations the Board needs to begin the drafting process.

Mr Hobbs wanted to know if there was another way to reinstate lapsed Accounting Practitioners without changing statute. Ms Dantzler stated that a regulation can not make it happen; however, if the Board wishes to sponsor legislation she will help.

C. The Board received the Administrator's report as information, and the report contained the following:

1. Administrator's Report:

a. Focus Questions – See Attached

As part of the Focus Questions Mark Hobbs felt the Board needed to be more involved around the state. For instance, he believes the Board should have meetings at various locations including colleges and universities. Mr Bryant mentioned several boards have done that in the past, but it has not been regarded as very effective. Ms Dantzler said the Engineering board tried it with lukewarm participation from students who were either uninterested or did not participate without professors insisting. Mr Burkett noted some professors will give extra credit if the students come.

Mr Burkett wants staff to come up with a recommendation for the next meeting as to what can be implemented.

Mr Callander stated that he will be teaching at Furman University next semester.

Mr Creech wanted to know when the other Boards did have the meetings at other locations, did they have hearings as well? Ms Dantzler stated they did but it really did not work very well.

2. Financial Report:

See Attached

8. Old Business.

- A. Work on statute and regulation changes were differed to the January 22, 2009 meeting

Mark Hobbs discussed how Out-of-State Firms have to register for Mobility purposes when completing Compilations with no disclosures for South Carolina clients. The UAA does not hold firms to such a stringent standard. Mr Burkett stated that this should be addressed when modifying our statutes.

- B. Mr Hobbs stated that the South Carolina Association of CPAs (SCACPA) gave a presentation at the September 24, 2008 Board meeting regarding how they were going to handle the collection of Peer Review Fees. Most of the other state boards view Peer Review as a cost of doing business if the firm offers audit services; the firm has to pay for the Peer Review and the cost of administering as part of the cost. Mr Camp said we need to find a way for LLR licensing process to charge the fee because the Board appears to losing control over the licensees when the Board contracts out to SCACPA to collect the fee for the process. The Board was told that it does not have the legal authority to add that Peer Review fee to the license fee. There must be something the Board can do to the statute that will allow this staff, at this agency, through the state processes to charge the fee. Mr Hobbs reminded the Board that through Jim Holloway and the fact that the Peer Review process is being monitored by the American Institute of CPA's, there does not need to be another level of monitoring. The firm does not have to use SCACPA as their Peer Review agency; they can use another agency to conduct their Peer Review

9. New Business

Regulation/Legislative Committee

- A. Peer Review Committee: Mark Hobbs

No Report

- B. Report of Education/Experience Committee: Bobby Creech

See Ms Kipp's entry earlier

- C. Report of CPE Committee: Bobby Creech

No Report

- D. Report of Examination/CBT Committee: Anthony Callander

Mr Creech stated that he attended the AICPA's Southeastern Regional Exam Forum and was involved in discussions about upcoming issues with the exam such as administering the exam in foreign countries and how to do so in a secure manner, when to bring in the international standards into the CPA exam, when the fees are to change, and problems with the Exam like the tendency for the computer to time out if a candidate sits at the instructions screen for too long. The candidate then has to repay all their fees. Mr Hobbs indicated that he has been made aware of problems with candidate signing up for the CPA Exam. It would be a good idea for all the Board members to know the procedures of signing up for the exam.

- E. Other Professional Issues Committee – Wendell Lunsford

No Report

- F. Report of Qualification for Licensure Committee: Anthony Callander

No Report

- G. Report of Character and Fitness Committee: John Camp

No Report

10. On motion by Mark Hobbs, seconded by Bobby Creech and unanimously passed the meeting calendar for 2010 was approved and the meeting change from September 24, 2009 to October 22, 2009 was approved.


11. Public Comments: Mr Bryant introduced Bob Selman, Assistant Deputy Director of Governmental Affairs. He is assigned to help all Boards with statutory and regulatory changes and to represent the Board before the General Assembly, committee and sub-committee meetings and alert the Board as to the status of different bills.

Mark Hobbs wanted to commend the staff for all the good work they do for the Board.

12. On motion by Mark Hobbs, seconded by Anthony Callander, and unanimously passed, the Chair adjourned the meeting at 11:39am.
13. The next meeting dates are as follows:

2009	
January 22, Thursday (Board Meeting)	Room 108
February	No Board Meeting
March	No Board Meeting
April	No Board Meeting
May 7, Thursday (Board Meeting)	Room 108
May 12-15, Quality Review Audits	Room 115
May 28, Thursday (Hearings, if needed)	Room 108
June 25, Thursday (Board Meeting)	Room 108
July	No Board Meeting
July 22, Wednesday (Hearings, if needed)	Room 108
August 27, Thursday (Board Meeting)	Room 108
September	No Board Meeting
October 22, Thursday (Board Meeting)	Room 202-02
November	No Board Meeting
November 12, Thursday (Hearings, if needed)	Room 108
December 3, Thursday (Board Meeting)	Room 108

Respectfully submitted,




Doris Cubitt, Administrator

Approved at the January 22, 2009 Board Meeting.



Donald H. Burkett, CPA, Chair



Mark T. Hobbs, CPA, Secretary