

MINUTES

SC Department of Labor, Licensing & Regulation
Board of Accountancy

Board Meeting

9 A.M., Wednesday, January 25, 2012
SYNERGY OFFICE PARK
KINGSTREE BUILDING, Room 108
110 CENTERVIEW DRIVE
COLUMBIA, S.C. 29210

NOTE: These minutes are a record of the motions and official actions taken by the Board and a brief summary of the meeting. A transcript of this meeting providing more detail will be available on the Board's website: www.llronline.com/pol/accountancy

1. Call to Order

Mark Hobbs, CPA, Chair, called the board meeting of the South Carolina Board of Accountancy to order on January 25, 2012, at 9:08 a.m., with a quorum present. Other Board members present were: Robert Baldwin, CPA, Vice Chair, Gary Forte, Secretary/Treasurer, David Nichols, Accounting Practitioner, Donald Burkett, CPA, Mark Crocker, CPA, Tanya Greenlee, CPA, Wendell Lunsford, Accounting Practitioner, and Malane Pike, Esq.

LLR staff members participating in the meeting included: Doris Cubitt, Administrator, Michael R. Teague, Administrative Assistant, Amy Holleman, Administrative Specialist, Wendi Elrod, Program Assistant, and Dean Grigg, Advice Counsel.

2. Adoption of Agenda

Mr Hobbs said that the prosecution requested and was granted a continuance regarding the hearing for Charles Finley, CPA 2442.

MOTION

Mr Burkett made a motion to approve the agenda with the changes above. Mr Baldwin seconded the motion which carried unanimously.

3. Approval of December 1, 2011, Meeting Minutes.

MOTION

Mr Burkett made a motion that the Board approve the minutes for the December 1, 2011, meeting with a clarification regarding a statement made during Mr Flint Smith's hearing. The minutes reflect, "Mr Griggs informed counsel and the defendant that the Board is asking to see the transcript from the Alford Plea as an exhibit, only the two sentences where the presiding judge asked plea what was being entered and Mr Smith's response." What it needs to read is, "the presiding judge asked what plea was being entered and Mr Smith's response." Mr Forte seconded the motion, which carried unanimously.

4. Complaint & Investigative Activity

Ms Cubitt said that there are seven active cases, with average open days of 266. The Board only has one investigator working those seven cases. OIE has assigned a new investigator the Board, Stella Hammond. She has been working with Jim Holloway, CPA on cases that need his expertise. Four cases have been closed and four other cases were not opened as

the complaint was not covered in our practice act. There is one case pending Board hearing, which was continued today, and one other case pending a hearing.

Ms Cubitt also introduced the Board to Andrew Rogers, the Board's new prosecuting attorney from the Office of General Counsel.

Mr Hobbs stated that he has been in contact with the Comptroller General's office about accepting audits from municipalities as part of state law. There are some that are prepared by individuals that are not licensed accountants. The CG's office is turning over the work product to the State Auditor's office, Rich Gilbert. The Board of Accountancy should also be informed so we can take action against the unlicensed accountants.

MOTION

Mr Baldwin made a motion that the Board Administrator, Doris Cubitt, contact the Comptroller General's office to review audits from municipalities, counties and other entities through out the state. Mr Burkett seconded the motion, which carried unanimously.

MOTION

Mr Burkett made a motion that the Board accept the report as information. Ms Greenlee seconded the motion, which carried unanimously.

5. Administrator's Report

Ms Cubitt discussed the following items:

- She has been appointed to NASBA's Executive Directors Committee. The primary function is to plan a once-a-year meeting for all executive directors, which will be March 10, through March 14, 2012, with an actual committee meeting on March 9, in San Antonio, TX.
- Eastern Regional meeting is scheduled from June 13, through June 15, 2012. New Board members receive a scholarship from NASBA to attend, with an extra day before to attend orientation in Philadelphia, PA.
- Western Regional meeting is scheduled from June 27, through June 29, 2012. The Executive Directors Committee is also having a meeting on June 30, in Anchorage, Alaska.

Ms Cubitt proposed to the Board to allow her to attend the Western Regional meeting instead of her attending the Eastern Meeting then flying out to Anchorage for the committee meeting.

MOTION

Mr Burkett made a motion that the Board approve travel for Ms Cubitt to attend the Executive Directors conference in March and the Western Regional meeting in June. Mr Baldwin seconded the motion, which carried unanimously.

MOTION

Mr Burkett made a motion that the Board pay for expenses for two Board members (to be determined) to attend a Regional meeting in June 2012. Mr Baldwin seconded the motion, which carried unanimously.

- Update about Clipping Service. Possibly use the same one the North Carolina Board uses, Carolina Clipping Service. It would allow the Board to be more pro-active in stopping unlicensed practice. Once specifics are obtained staff will complete proper LLR procedures to obtain the service.
- The IRS has chosen NASBA's National Registry of CPE Sponsors as an acceptable accrediting agency for the mandatory CPE.
- The Board of Examiners has approved the revision of the International Qualifications Examination (IQEX) with the Regulations Section of the CPA Exam. Instead of the exam only being offered once a year, candidates will be able to take the exam, effective November 2012, the second month of every quarter at any Prometric testing center. The IQEX is given to those CPAs from countries that have an approved Mutual Recognition Agreement looking to be licensed in the US.
- The US Department of Veterans Affairs approved the CPA Exam. Veterans can have eligible expense reimbursed, with a similar program for active duty spouses. There are several other categories that qualify, too.
- NASBA and AICPA have given final approval to the revisions to the Statement on Standards for CPE.
- The statute changes that the Board worked on for this legislative session will not be introduced, as LLR will not sponsor legislation. We found out this morning that each board will have to find its own sponsors to introduce legislation. Also, we have been informed that both Governor Haley and Ms Templeton are opposed to some portions of our bill; however, specifics were not provided.
- LLR implemented a phone system in April 2011, which tracks calls that come into our main number (see attached for breakdown). There is a separate number for Accountancy and another for Funeral/Cemetery. It does not track calls coming into staffs' individual numbers. All staff members, including the administrator, logs into the system. The system then distributes the calls to the next available person. From April through December, 5436 calls came in, of which 4693 were answered with 11% going unanswered. If everyone is busy the caller is placed in a cue. Some individuals will hang-up as soon as they get to the queue.

MOTION

Mr Burkett made a motion that Ms Cubitt ask Ms Templeton what parts of the Accountancy statute she opposes and notify the Board of the response. Mr Baldwin seconded the motion, which carried unanimously.

Mr Hobbs asked Mr Grigg to find out the appropriate steps necessary for the Board to have legislation introduced.

Ms Cubitt added that she was able to contact Mr Gillespie, who is downtown, and he will be able to discuss the issue after 11:00 a.m. He mentioned there are two concerns, one is the language in our bill that says that the Board picks the administrator, and the other concern was the liability protection language.

Mr Hobbs suggested that since both the advice and prosecuting attorneys are newly appointed to the Accountancy Board, it would be in the best interest to them and the Board to authorize them to participate and attend the upcoming NASBA Legal Counsel Conference.

MOTION

Mr Baldwin made a motion that both the newly assigned Advice and Prosecuting attorneys attend the NASBA Legal Counsel Conference to learn about accountancy and to be more effective as Board counsel and prosecutor. Mr Burkett seconded the motion, which carried unanimously.

6. Recommendation of Walter Davenport as the National Association of State Boards of Accountancy's Vice Chair

MOTION

Mr Baldwin made a motion that the Board resolve to support Walter Davenport's nomination as NASBA's Vice Chair. Ms Pike seconded the motion, which carried unanimously.

7. Form and Application Review

Mr Crocker addressed the Board regarding the Accountancy applications and forms suggesting steps that can be taken to help Board staff to be as efficient as possible.

- Adding something to the Board's home page to draw the reader's attention to it.

CPE REPORTING FORM (Fillable PDF)

- Making some fields on the CPE Reporting PDF form mandatory in order to capture needed information.
- Have the CPE Reporting PDF form automatically calculate the totals when a licensee enters his or her data.
- An alternative to having the fillable PDF would be to have a way for the licensee to login and enter his or her CPE directly into our database, several other state Boards have moved to this option.
- Lift the prohibition of not allowing the submission of the completed CPE form by email.
- Change the wording of the second bullet from "are not acceptable" to "may not be acceptable."
- Clean up the second page so that it reads easier.
- Have the ability for licensees to receive confirmation that the Board received the CPE report

Ms Cubitt said that there is not any leeway about making aesthetic changes to the Board's homepage. LLR's Office of Information Systems has a standard look for all Board websites.

- Regarding making certain fields mandatory, if the individuals print the form and mail in these would not capture what is needed.
- OIS is working with other Boards to pilot a project for licensees to enter CPE into our database.
- Encourage licensees to send a self-addressed, stamped post card for staff to stamp as received and send back. Exploring idea of having the confirmation and carryover hours displayed in licensee look-up and possible privacy issues.
- Signatures have been required for legal reasons, but that is the Board's discretion. This issue may be addressed in the new online submission program that OIS is testing.

INITIAL IN-STATE FIRM REGISTRATION

- Burdensome to capture all locations and partners
- Questions 15 through 19 asks questions, for those firms that have been around awhile, which may be impossible to answer.

Ms Cubitt said that firms normally send a list or spreadsheet of locations with a point of contact, address, phone, and email. The big regional and national firms do this automatically for mobility purposes. When partners change they also send updates. The Initial application questions are needed as we may have never registered the firm before and need to know. Then the renewal will ask, "since your last renewal."

OUT-OF-STATE FIRM REGISTRATION

- Question 14, What type of work does the firm perform? There is a long list of services from which to choose.

Ms Cubitt said the main item staff is looking for is if the firm is providing any type of services that require the firm to be Peer Reviewed in their principal state of business.

Mr Hobbs asked for someone from OIS to attend the next Board meeting to address the possibility of having a portal for the licensee to log into to obtain carryover hours and whether Board staff has received their CPE. Ms Cubitt will make the request. Mr Hobbs asked if Mr Crocker would follow this through with the OIS team. Mr Crocker agreed.

MOTION

Ms Pike made a motion that the Board go into Executive Session for legal advice. Mr Burkett seconded the motion, which carried unanimously.

MOTION

Mr Burkett made a motion that the Board come out of Executive Session. Ms Pike seconded the motion, which carried unanimously.

Mr Hobbs stated that no votes or actions were taken while in executive session.

8. Discussion regarding LLR Engine Bill

Ms Pike pointed out two major issues that have been addressed to Ms Templeton in writing:

- Section 40-1-50, allowing only the LLR Director the authority to chose the Administrator for the Board of Accountancy. Previously, the Board did have some input into the selection
- A provision for Limited Immunity. The Board would rather have their provision as stated in the Practice Act

9. Consideration of the US International Qualifications Appraisal Board's (IQAB) Mutual Recognition Agreement with Hong Kong

MOTION

Mr Burkett made a motion that the Board accept the Mutual Recognition Agreement with Hong Kong. Mr Baldwin seconded the motion, which carried unanimously.

10. Consideration of allowing the Board Administrator the Authority to Sign Letters of Caution

Ms Cubitt said at the last Investigative Review Committee they discussed, for those cases that did not warrant any disciplinary action but we need to caution the licensee, to have the Administrator to sign the Letter of Caution rather than the Board Chair. This would alleviate the possibility of tainting the Board Chair if something else arose in the future regarding the individual.

MOTION

Mr Nichols made a motion that the Board authorize the Board Administrator the authority to sign Letters of Caution. Mr Burkett seconded the motion ,which carried unanimously.

11. Consideration of whether Failure to Comply with CPE Requirements in another State Impacts a South Carolina License

Ms Cubitt said that those South Carolina licensees that are licensed in another state or licensees who have their original license through their parent state and have a reciprocal license through SC and are disciplined through the other jurisdiction for non-compliant CPE, do we need to discipline them as well?

12. Consideration of repercussions of not completing CPE timely

Ms Cubitt said that she has seen more calls this year from licensees that said that they have not completed their CPE. She told them to complete their CPE as quickly as possible and to turn in their CPE Report with a letter explaining their circumstances. Mr Hobbs recommended staff compile a list of individuals, sort them by category of excuse, and recommend of disciplinary action, if any, at each Board meeting. Use a graduated penalty rate.

13. Approval of CPA Exam Grades

MOTION

Mr Lunsford made a motion that the Board approve the 4th Quarter 2011 CPA Exam Grades. Mr Forte seconded the motion, which carried unanimously.

14. Outline of Operations

Ms Cubitt provided the Board an overview of the functions of the Accountancy, Perpetual Care Cemetery, and Funeral Boards and how she and the four staff members keep everything flowing. Ms Cubitt briefly gave some statistical numbers regarding licensure in 2011 and a list of functions (see attached).

Accountancy
Overall Credentials issued – 404
Reinstated – 20
Voluntarily Surrendered – 107
Lapsed – 331

Cemetery stays level at 121 licenses; however, they are a lot of work.

Funeral
Overall Credentials issued – 195
Apprentice Extensions – 18
Change of Supervisors – 3
Change of Managers – 20
Facility Name Changes - 5

Ms Cubitt also mentioned that the Board received in their Board information CPA Exam Candidate, licensing application review, and experience instructions that both Amy and Michael follow. Ms Cubitt mentioned that, on average, everyone works beyond 5 p.m. We also have the Operations unit of LLR that helps out in completing routine tasks like annotating licensees' records that CPE was received. Board staff will review the course work to make sure everything was completed and filed timely then scan into each licensee's record. Unfortunately, there have been projects placed on the far back burner like the newsletter.

15. Board of Accountancy Annual Report

Mr Hobbs handed out a proposed outline (attached) of what the Annual Report will cover. Mr Hobbs said that NASBA is in support of Boards providing this type of information to the public, educators, legislators, and other interested bodies. Mr Hobbs went on to say that he would like to get comments from the Governor, LLR Director, Board Administrator and Board Chair. The idea is to have it available for the Annual CPA Day at the Statehouse. Mr Hobbs's proposal is to have an annual report in the spring and a newsletter in the fall.

MOTION

Mr Baldwin made a motion that the Board authorize Mr Hobbs to proceed with the Annual Report as outlined. Mr Nichols seconded the motion, which carried unanimously.

16. Consideration of 2013 Board Meeting Dates

The Board agreed to the proposed Board meeting dates for 2013, and for the October meeting to be October 18, 2013.

17. Public Comments

Mr Hobbs introduced Ms Linda McKenzie from Ernst & Young.

Ms McKenzie spoke of several points of clarification on Regulation 1-10(D) as it relates to her firm and other large firms she represents through the Accountants Coalition.

- Ask that there be a FAQ or they receive guidance that confirms that the rule applies only to employees operating in a client-serving capacity.
- Is the Board going to consider, in enforcement if this issue arises, a firm's best efforts in complying with the rule? Are the firms going to be penalized for intentional association with a person whose license is revoked or suspended? What if the firm is not knowledgeable of the action against the individual?
- Does the regulation only apply during the disciplinary time frame?

Mr Hobbs said that revocation is permanent, so suspension would be the question. Ms Cubitt said that if the license is suspended and the suspension period is up, then the licensee would have an active license, and the firm is not bound by the Regulation.

Mr Burkett, addressing the second issue, said it would have to be on a case by case basis. If you think you did your best efforts, and you did not comply with the law, come and make an argument you did do your best efforts, and we will consider the facts and circumstances.

Mr Burkett, addressed the first issue, in South Carolina, if a license is suspended, the individual cannot work in that capacity with a firm, revoked, the individual cannot work in that capacity with the firm. Ms McKenzie asked about "in that capacity" the capacity that resulted in the action that was taken against that person? What if they were moved into another capacity? Mr Hobbs added that it means "any other capacity connected with the practice of accounting" as stated in the regulation. Ms McKenzie asked about firing and rehiring the individual. Mr Grigg added that it would be up to the firm to fire someone. All that the suspension is saying is they cannot work. If the firm wants to keep the employee, and the employee does not work during the suspension, it is up to the firm and his HR office. The Board does not regulate whether a firm or company continues to employ an individual. The individual cannot work during the suspension in South Carolina.

Mr Hobbs asked Ms McKenzie if this cleared up her issues, to which she said yes.

MOTION

Mr Baldwin made a motion that the Board go into Executive Session for legal advice. Mr Nichols seconded the motion, which carried unanimously.

MOTION

Mr Baldwin made a motion that the Board come out of Executive Session. Ms Pike seconded the motion, which carried unanimously.

Mr Hobbs stated that no votes or actions were taken while in executive session.

MOTION

Ms Pike made a motion that the Board ask the South Carolina Association of CPAs to assist in getting the Accountancy Bill sponsored for legislative introduction. Mr Burkett seconded the motion, which carried unanimously.

Mr Hobbs wanted to reflect that investigation yielded that the Board could hire a lobbyist to assist in sponsoring the Accountancy legislation; however, due to the time constraint, the Board is prohibited from making the decision.

18. Adjournment

MOTION

There being no further business to be discussed at this time Mr Baldwin made a motion the meeting be adjourned. Mr Burkett seconded the motion, which carried unanimously.

The January 25, 2012, meeting of the SC Board of Accountancy adjourned at 12:37 p.m.

Respectfully submitted,

Doris E Cubitt, CPA
Administrator

Approved at the April 24, 2012, Board Meeting.

Mark Hobbs, CPA, Chair

Robert Baldwin, CPA, Vice Chair