


**CALIFORNIA BOARD OF ACCOUNTANCY**

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 DEPARTMENT OF CONSUMER AFFAIRS  
 CALIFORNIA BOARD OF ACCOUNTANCY

**FINAL**
**MINUTES OF THE  
 July 16, 2004  
 BOARD MEETING**

The DoubleTree Club Hotel  
 1515 Hotel Circle South  
 San Diego, CA 92108  
 Telephone: (619) 881-6900  
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## I. Call to Order.

President Ian B. Thomas called the meeting to order at 8:07 a.m. on Friday, July 16, 2004, at the DoubleTree Club Hotel in San Diego. The Board broke for lunch at 12:05 p.m. and reconvened at 1:00 p.m. The Board and ALJ Adler heard Agenda Item XI.A. The Board convened into closed session at 1:30 p.m. to deliberate and consider Agenda Item XI.B. The Board reconvened into open session at 2:05 p.m. and adjourned at 4:02 p.m.

Board Members
July 16, 2004

Ian B. Thomas, President	8:07 a.m. to 4:02 p.m.
Renata Sos, Vice President	8:07 a.m. to 12:05 p.m.
Stuart Waldman, Secretary-Treasurer	8:07 a.m. to 4:02 p.m.
Ronald Blanc	8:07 a.m. to 4:02 p.m.
Richard Charney	8:07 a.m. to 4:02 p.m.
Ruben Davila	8:07 a.m. to 4:02 p.m.
Donald Driftmier	8:07 a.m. to 4:02 p.m.
Charles Drott	8:07 a.m. to 4:02 p.m.
Sally A. Flowers	8:07 a.m. to 4:02 p.m.
Sara Heintz	8:07 a.m. to 4:02 p.m.
Gail Hillebrand	8:07 a.m. to 4:02 p.m.
Thomas Iino	Absent

Clifton Johnson	8:07 a.m. to 4:02 p.m.
Olga Martinez	8:07 a.m. to 4:02 p.m.
David Swartz	8:07 a.m. to 4:02 p.m.

#### Staff and Legal Counsel

Mary Crocker, Assistant Executive Officer  
Patti Franz, Licensing Manager  
Michael Granen, Deputy Attorney General, Board Liaison  
Aronna Granick, Legislation/Regulation Analyst  
Robert Miller, Legal Counsel  
Greg Newington, Chief, Enforcement Program  
Theresa Siepert, Executive Analyst  
Carol Sigmann, Executive Officer  
Liza Walker, Renewal and Continuing Competency Analyst  
Jeanne Werner, Deputy Attorney General, Board Liaison

#### Committee Chairs and Members

Nancy Corrigan, Chair, Qualifications Committee  
Harish Khanna, Chair, Administrative Committee  
Michael Williams, Vice Chair, Qualifications Committee

#### Other Participants

Kay Carnes, NASBA IQAB Member  
Tom Chenowith  
David Costello, President & CEO, NASBA  
Julie D'Angelo Fellmeth, Center for Public Interest Law (CPIL)  
Mike Duffey, Ernst & Young LLP  
Gene Erbstoesser, Ernst & Young LLP  
Katy Gould, Society of California Accountants (SCA)  
Craig Mills, Executive Director, Examinations, AICPA  
Wendy Perez, Ernst & Young LLP  
Richard Robinson, Big 4 Accounting Firms  
Diane Rubin, NASBA Director-at-Large  
Larry Schnitzer, California Society of Accounting and Tax Professionals (CSATP)  
Hal Schultz, California Society of Certified Public Accountants (CalCPA)  
Jeannie Tindel, California Society of Certified Public Accountants (CalCPA)  
Bill Treacy, NASBA IQAB Member  
Charlene Zettel, Director, DCA

## II. Board Minutes.

A. Draft Board Minutes of the May 14, 2004, Board Meeting.

Mr. Waldman reported that SB 1451 by Senator Figueroa also has to do with privacy protection. It was amended three times since the May Board meeting. This bill is awaiting a vote on the Assembly floor. The Board has a WATCH position on this bill. Mr. Waldman indicated that at the Legislative Committee meeting yesterday, it was reported that under the provisions of this bill, if the Board obtains bookkeeping information during an investigation, the Board would be prevented from using it in an administrative proceeding. Mr. Waldman additionally reported that Senator Figueroa's staff indicated they would be willing to put a letter in the Assembly Daily Journal indicating this was not their intent. Also, Mr. Granen suggested statutory language to address this concern, and this language will be discussed at the next Legislative Committee meeting.

g. SB 1543 Figueroa – California Board of Accountancy.

Mr. Waldman reported that SB 1543 by Senator Figueroa is the Board's sunset bill, and it has been amended to include our practice privilege proposal, the laws on administrative fines, and other law changes related to the Enforcement Program. It also places in statute our regulation on the disclosure of confidential information, Section 54.1. This bill is scheduled for hearing before the Assembly Appropriations Committee on August 4, 2004. This bill was amended to clarify that the Board shall permit notification to be provided electronically. Staff have been working on assessing the fiscal impact in preparation for the August 4, 2004, hearing.

h. SB 1735 Figueroa and Aanestad – Boards: Department of Consumer Affairs.

Mr. Waldman reported that SB 1735 by Senators Figueroa and Aanestad exempt DCA boards from the hiring freeze. This bill was discussed at the February Board meeting and the Board adopted a SUPPORT position. SB 1735 is in the Suspense File in Assembly Appropriations. If this bill passes, it could mean the return of 4.75 positions to the Board.

4. Positions on Legislation.

a. AB 664 Correa – California Board of Accountancy: Members.

Mr. Waldman reported that when AB 664 by Assembly Member Correa was discussed at the May Board meeting, it addressed outsourcing issues and the Board adopted a WATCH position on

violations for which action was taken against the petitioner's license, or to seek legislation to require respondents to reimburse the Board for all reasonable costs prior to submitting a petition for reinstatement.

Mr. Drott indicated that it was EPOC's recommendation that the Board maintain its current policy and add a question to the petition application asking if reimbursement of costs have been paid, and if not why. If the petitioner is claiming financial hardship, documentation would be requested.

**It was moved by Mr. Drott, seconded by Mr. Swartz, and unanimously carried to adopt EPOC's recommendation.**

5. Consideration of a Requirement to Make Restitution to Harmed Consumers Prior to Submitting a Petition for Reinstatement.

Mr. Drott reported that EPOC also considered the issue of requiring restitution to harmed consumers prior to petitioning for reinstatement of revoked certificates. The Board's current approach is that restitution is considered during the petition process as an indicator of rehabilitation; however, payment of restitution is not required prior to submitting a petition for reinstatement. Mr. Drott reported that it was EPOC's recommendation that the Board continue its current approach and add a question to the petition application relative to restitution to third parties.

**It was moved by Mr. Drott, seconded by Ms. Hillebrand, and unanimously carried to adopt EPOC's recommendation.**

6. Review of Current Board Policy for Accepting Installment Payments for Recoverable Costs and Administrative Fines.

No report was given on this item.

F. Practice Privilege Task Force (PPTF) (Formerly the Uniform Accountancy Act Task Force – UAA TF).

1. Minutes of the May 13, 2004, Uniform Accountancy Act Task Force Meeting.

The minutes of the May 13, 2004, UAA Task Force meeting were adopted on the Consent Agenda. (See Agenda Item XI.B.)

2. Report on the July 15, 2004, Practice Privilege Task Force Meeting.

Ms. Sos reported that the Task Force had been charged with developing implementing regulations. She noted that since the Task Force last met, the statutory language had gone into SB 1543. Hearings were held on June 1, 2004, before the Joint Legislative Sunset Review Committee and June 22, 2004, before the Assembly Business and Professions Committee. Both hearings went well. Ms. Sos indicated that the agenda items listed below were discussed; however, no policy decisions had been made at this point.

3. Practice Privilege Implementation Overview.

a. Update on Legislation.

Ms. Sos reported that the Task Force discussed the progress and status of SB 1543, now in the Assembly Appropriations Committee. It will be up for hearing on August 4, 2004.

b. Issues, Meeting Schedule and Time Line for the Development of Regulations.

Ms. Sos reported that the Task Force discussed the issues, time frames, and critical steps to having regulations in place by November 15, 2005.

c. Identification of Additional Issues for Task Force Consideration.

Ms. Sos indicated that if any Board members or members of the public had any additional issues for the Task Force's consideration, contact either herself or Ms. Sigmann.

4. Notification Form – Consideration of How it Should be Handled in Regulations.

The Task Force's recommendation will be presented at a future Board meeting.

5. Consideration of Whether There Should be a "Safe Harbor" Period for Providing Notification to the Board.

This issue will be considered at future Task Force meetings.

6. Consideration of Whether the Board Should Accept NASBA's Designation of States as Substantially Equivalent (Subject to Board Review) or Develop its own List.

Ms. Sos reported that agenda items VIII.F.6 & VIII.F.7 were deferred until the next Task Force meeting. She noted that Ms. Rubin would be attending the September 9, 2004, meeting and would be providing information regarding NASBA's substantial equivalency determinations. The Task Force plans to discuss other states' ethics requirements.

7. Consideration of Whether the Board Should Accept NASBA's Determination of an Individual's Substantial Equivalency or use Some Other Method for Assessing the Qualification of CPAs from Non-Substantially Equivalent States.

See Agenda Item VIII.F.6.

8. Consideration of Notice Payment Issues.

These issues will be considered at a future Task Force meeting.

- a. If the Individual Does not Pay the Fee or the Check is Dishonored, Should There be a Limit to the Number of Subsequent Notifications?
- b. May a Notification be Withdrawn Prior to the Expiration of the 30-Day Payment Period?

## IX. Examination Appeals – Personal/Written.

### A. Personal Appeal – John Gwynn.

Ms. Franz reported that the Board received Mr. Gwynn's application to sit for the exam in February 2004. His supporting educational documents reflected that only 10  $\frac{2}{3}$  credits of the required 24 accounting units were met and Mr. Gwynn's application was denied. The first level appeal was received in April 2004 and reviewed by management specifically related to the courses that Mr. Gwynn believed met the accounting requirements. Course descriptions received from the Stanford University School of Business were reviewed by management and it was determined that the courses did not satisfy the accounting requirement as identified in Section 9.2 and first level of appeal was denied. Ms. Franz indicated that Mr. Gwynn had filed a second level of appeal and would like to address the Board.

Mr. Gwynn thanked the Board for its time and consideration of his appeal. He indicated that he believed that many courses get excluded from the accounting requirement due to staff difficulty in identifying



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Practice Privilege TF Agenda Item I  
 July 15, 2004

Board Agenda Item VIII.F.1  
 July 16, 2004

**DRAFT**

UAA TASK FORCE  
 MINUTES OF THE MEETING  
 UAA TASK FORCE  
 May 13, 2004  
 The Sheraton Pasadena Hotel  
 303 E. Cordova Street, Pasadena, CA 91101

**CALL TO ORDER**

Renata Sos, Chair, called the meeting of the UAA (Uniform Accountancy Act) Task Force to order at 1:40 p.m. and welcomed the participants. Ms. Sos indicated that to ensure compliance with the Bagley-Keene Open Meeting Act, when a quorum of the Board is present at this meeting (eight members of the Board), Board members who are not serving on the Task Force must attend as observers only.

Present:

Renata Sos, Chair  
 Ian Thomas  
 Gail Hillebrand  
 Thomas Iino  
 Harold Schultz  
 David Walton

Staff and Legal Counsel

Mary Crocker, Assistant Executive Officer  
 Patti Franz, Licensing Manager  
 Michael Granen, Deputy Attorney General  
 Aronna Granick, Legislation/Regulations Coordinator  
 Bob Miller, Legal Counsel  
 Greg Newington, Chief, Enforcement Program  
 Carol Sigmann, Executive Officer

Other Participants

Tom Chenowith  
 Nancy Corrigan, Chair, Qualifications Committee  
 Julie D'Angelo Fellmeth, Center for Public Interest Law  
 Michael Duffey, Ernst and Young LLP  
 Del Exeter, Society of California Accountants

Bill Gage, Senate Business and Professions Committee  
Katie Gould, Society of California Accountants  
David Link, Senate Business and Professions Committee  
Richard Robinson, Richard Robinson and Associates  
Jeannie Tindel, California Society of Certified Public Accountants

Board Members Observing

Clifton Johnson  
Richard Charney  
Ruben Davila

I. Minutes of the April 9, 2004, Meeting.

Mr. Thomas indicated that he had three corrections to the minutes of the April 9, 2004, meeting: on page 4, second full paragraph, fourth line, "removed" should be replaced with "remove"; on page 6, third paragraph, first line, "was" should be deleted; and on page 7, first paragraph, third line, "petition" should be replaced with "petitioner." Ms. Sos also suggested that on page 7, first paragraph, third line, it should read "public hearing" instead of "petitioner hearing" to clarify that the example cited by Mr. Newington took place in a public forum. **It was then moved by Mr. Thomas, seconded by Ms. Hillebrand, and unanimously carried to approve the minutes of the April 9, 2004, meeting with the changes noted above.**

II. Proposal to Defer Firm Notification.

Ms. Sos reported that the Task Force had been developing, concurrent with the individual notification process, a proposal for firms to provide notification for multiple employees who would be entering California to practice under a practice privilege. At its April 9, 2004, meeting the Task Force held a lengthy discussion about this proposal and considered, in particular, the ability of firms to make representations regarding their employees. The Task Force also discussed some of the enforcement challenges posed by the firm notification paradigm.

Ms. Sos explained that after that meeting, she had considered the serious unanswered questions that were raised and concluded that she could not support proceeding with the firm notification proposal at this time. She was therefore recommending that the Task Force defer further consideration of firm notification until a time in the indefinite future. She added that the reasons for this recommendation are outlined in her April 15, 2004, memo (Attachment 1). She further indicated that she had instructed Ms. Sigmann to direct staff to preserve the work that had been completed but to do no additional work on the firm notification process.

Ms. Sos noted that one reason for her recommendation was that the proposal was based on assumptions that were not supported by empirical data. She suggested that further development, if any, of the firm notification proposal should wait until individual

notification is implemented and the Board has some real world experience to use in making a determination whether firm notification is necessary.

Mr. Iino expressed support for Ms. Sos' recommendation and inquired if plans had been made for data collection. Ms. Crocker indicated that if there are specific questions to be addressed, they could be incorporated into the notice. Ms. Hillebrand suggested that firms could also assist in the data collection process.

**After discussion, it was moved by Mr. Thomas, seconded by Ms. Hillebrand, and unanimously carried to approve Ms. Sos' recommendation to cease further work on the firm notification proposal.**

### III. Proposed Statutory Language to Implement Substantial Equivalency in California.

#### A. Statutory Language Revised at April 9, 2004, Meeting.

Ms. Sos described the materials provided under Agenda Item III (Attachment 2). She noted that the cover memo gives an overview of the principal building blocks that comprise the practice privileges statutes. Attached to the cover memo are the draft statutes and a draft notification form which is provided for illustrative purposes only. She added that the Task Force's objective at this meeting was to come to an agreement regarding the draft statutes and make a recommendation to the Board.

Ms. Sos then asked Ms. Sigmann to provide an update on the time line for getting the Board's proposal included in legislation. Ms. Sigmann indicated that the Task Force's recommendations will be acted on by the Board at its May 14, 2004, meeting. Then the practice privileges proposal and other sunset review recommendations will be considered at a hearing before the Joint Legislative Sunset Review Committee (JLSRC) on June 1, 2004. Ms. Sigmann noted that Mr. Thomas and Ms. Sos planned to testify at the hearing. Following that hearing, it is anticipated that the JLSRC will meet again the following week to vote on the proposal. Statutory language to implement the JLSRC's recommendations will be amended into legislation around June 15, 2004, and will be considered by the Assembly Business and Professions Committee on June 22, 2004.

Before the Task Force began discussing the draft statutes, Ms. Sos reported that earlier that day she, Ms. D'Angelo Fellmeth, and Mr. Robinson had been discussing the notification process and the issue of at what point in time must notification occur vis a vis when the licensee actually starts practicing in California. Ms. Sos noted that the Task Force previously had considered the timing of notification and how it might operate for large firms, and the Task Force had decided to require immediate notification. She added that, now that firm notification is not going forward, it may be useful to consider whether there should be a grace period, in particular when the licensees are partners or employees of registered firms:

Mr. Robinson expressed support for the concept of a "grace period" or "safe harbor period." He commented that the intent would be for everyone to provide notification when entering the state. However, his clients, the "Big Four" accounting firms, are concerned that, because of the size of their firms, more time might be needed to make sure the employee or partner giving notice does so properly. Therefore they would like a thirty-day safe harbor period. He expressed support for a proposal suggested by Mr. Granen which would provide such a safe harbor period for partners and employees of registered firms. He noted that the Board already has a "regulatory hammer" as it regulates the firm. He added that, under this proposal, the representations would be made under penalty of perjury and would be effective when the out-of-state licensee commences practice in California, even though the notice could be given later. He further noted that the safe harbor proposal could create an incentive to comply by allowing individuals who failed to give notice before they began practicing to do so afterwards.

Mr. Duffey agreed and noted that when an individual becomes aware of noncompliance, he or she can submit the notice which would be retroactive to the time when practice in California began. He suggested that this would encourage better compliance and be consistent with the language in the UAA.

Ms. Hillebrand expressed concern that this was a new idea, and indicated that she was not prepared to make a decision at this time. She noted that it was anticipated that filing the notification itself would be very simple, and could be done very quickly on-line. Further, a grace period for paying the fee had already been approved by the Task Force. She expressed concern that if the Board permits the notice to be filed after practice begins, it would be difficult to disqualify those individuals whose notifications are subject to further review.

Ms. Sos indicated that the issue of a safe harbor period will need to be considered when drafting regulations. However, the Task Force, in its review of the draft statutes, needs to determine if the statutory language needs to be revised to allow for a grace period to be established by regulation. **After discussion, it was moved by Mr. Walton, seconded by Ms. Sos, and carried (5 "ayes" 1 "no") to make the following revisions to Section 5096 to allow for the adoption of a safe harbor period by regulation: Make the second sentence of 5096(c)(2) a new subdivision (d) and begin it with the words "Except as otherwise provided by this Article or by Board regulation..." Also, re-letter the subsequent provisions in Section 5096, and at the end of new subdivision (f) insert "unless a shorter period is set by Board regulation."** Ms. Sos commented that the subject of a safe harbor period will be on the agenda for discussion at the next meeting.

The Task Force then discussed the remaining provisions in proposed Article 5. During the discussion of the sunset date, it was suggested that the date should be changed from 2010 to 2011 so that there would be three full years of data on practice privileges before the Board's next sunset review report is due. **It was moved by Mr.**

**Thomas, seconded by Ms. Hillebrand, and unanimously carried to approve this date change.**

In addition to the changes noted above, the Task Force also made following revisions to Article 5.1:

- In Section 5096(a)(2), change "had" to "has";
- in Section 5096(g)(2)(C), change "tendency" to "pendency";
- in Section 5096(g)(2)(D), after the semicolon, insert "or";
- in Section 5096.4(c)(2), after the semicolon add "and";
- in Section 5096.4(c)(3), at the end of the paragraph, delete the semicolon and insert a period;
- in Section 5096.4(d), delete "that" and capitalize "The";
- in Section 5096.4(g), insert at the end of the sentence ", unless a shorter period is set by Board regulation"; and
- in Section 5096.7(b), capitalize "Any" at the beginning of the sentence.

Ms. Hillebrand observed that one of the reasons there were so few revisions is that extensive work had already been done on the language. **It was then moved by Mr. Schultz, seconded by Mr. Thomas, and unanimously carried to recommend Board approval of the language in proposed Article 5.1 with the revisions noted above.**

**The Task Force then considered amendments to the Board's current statutes for consistency with Article 5.1. After discussion, it was moved by Mr. Thomas, seconded by Mr. Iino, and unanimously carried to insert at the end of Section 5134(i) the following sentence: "This subdivision shall become operative on January 1, 2006."**

**It was then moved by Mr. Schultz, seconded by Mr. Walton, and unanimously carried to recommend Board approval of the amendments to the Board's current statutes for consistency with Article 5.1, with the revision noted above.**

#### B. Revisions to Section 5088

Ms. Sos noted that the revisions to Section 5088 were provided near the end of the last meeting when there was insufficient time to discuss them. The purpose of revising Section 5088 is to bring out-of-state licensees applying for a California license under the practice privileges umbrella and to enhance the Board's options for regulating and disciplining these individuals.

**After discussion, it was moved by Ms. Sos, seconded by Ms. Hillebrand and unanimously carried to recommend Board approval of the amendments to Section 5088 with the following revision: after "practice privilege" insert "during the period that the application is pending"; and at the end of the section insert a new subdivision (b) that reads "This section shall become operative on January 1, 2006."**

Ms. Sos acknowledged the outstanding work of Mr. Granen in drafting the statutory language and Ms. Hillebrand in editing the language. In addition Ms. Sos acknowledged the contributions of Board staff, Mr. Duffey, Mr. Robinson, Ms. D'Angelo, Fellmeth, and Ms. Tindel. Mr. Thomas, on behalf of the Board, thanked the Task Force for its dedication and excellent work.

#### C. Internet Practice.

Ms. Sos noted that this issue of Internet practice and the issue of exemptions from notification were not considered by the Task Force because it was determined that these issues relate to broader concerns that implicate the definition of the practice of public accountancy and related enforcement issues. Therefore, she is recommending that these issues be referred to the Enforcement Program Oversight Committee for further discussion.

#### D. Exemptions from Notification.

See Agenda Item III.C above.

#### IV. Comments from Members of the Public.

Mr. Duffey commented that the public accounting profession has struggled for decades to match expertise with client needs given the labyrinth of state licensing laws. He noted that UAA Section 23 is intended to address that concern. He reported that he has observed a number of states considering Section 23, but has never previously seen a process with the degree of transparency, study, and analysis that the Task Force has demonstrated. He thanked the Task Force members for an excellent process and product.

#### V. Agenda Items for Next Meeting

Ms. Sos noted that the statutes provide for an effective date of January 1, 2006, and implementing regulations need to be in place by that time. She added that to meet that deadline, it would be useful for the Task Force to remain in place and begin the process of working on regulations at its next meeting. A regulation related to a "safe harbor period" would be a discussion topic at that meeting.

There being no further business, the meeting was adjourned at 3:30 p.m.

## Memorandum

UAA TF Agenda Item II  
May 13, 2004

Board Agenda Item VIII.G.5  
May 14, 2004

To : UAA Task Force  
Interested Parties

Date : April 15, 2004

Telephone : (916) 263-3981

Facsimile : (916) 263-3674

E-mail :

From : Renata Sos, Chair  
UAA Task Force

Subject : RECOMMENDATION THAT THE UAA TASK FORCE CEASE FURTHER WORK  
ON THE FIRM NOTIFICATION PROPOSAL

As you know, the UAA Task Force has been developing an innovative process – and drafting corresponding statutes – under which individuals employed by firms could enter California under “substantial equivalency” through notice provided to the Board by the firm rather than by the individual. As conceived, the firm notification process would have served as an alternative to individual notification. At its April 9<sup>th</sup> meeting, the Task Force discussed a number of issues, including verification and enforcement problems, raised by the firm notification process as currently configured. On that score, the Task Force benefited greatly from the comments and insights of a number of meeting participants, including in particular those of Julie D’Angelo Fellmeth and Greg Newington.

Based on the discussions at that and prior Task Force meetings, and comments provided by interested parties throughout the Task Force’s work, I am recommending that the Task Force defer, until further direction from the Board, the question of whether and, if so, how to implement a firm notification process. Under this proposal, mindful of the tight legislative timeline under which we are operating, the Task Force going forward would focus its efforts on completing its recommendations to the Board on May 14<sup>th</sup> on draft statutes for the *individual* notification process. Accordingly, I have directed Carol Sigmann to have staff cease any and all work on the proposed firm notification process, save for preparing the minutes of the last Task Force meeting, excising references to firm notification from the draft statutes, and preserving the work of the Task Force and interested parties on firm notification should the issue be revisited in the future. As the agenda for the upcoming May 14<sup>th</sup> meeting will reflect, the deferral of the firm notification issue will be put to the Task Force for a vote after an opportunity for public comment.

April 15, 2004

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While there may be a point at which a firm notification process merits further consideration, I do not believe that the time is now. There are a number of significant unanswered questions regarding, among other things, the scope and content of representations made by the firms in the context of blanket notification and the resultant implications for this Board's enforcement efforts. Thus, the firm notification proposal, at a minimum, requires extensive additional thought, analysis and refinement. Moreover, I believe that any further consideration would benefit from the real-world experience of implementing an *individual* notification system and collecting data on such things as the number of notices received from individuals employed by firms and the attendant costs and burdens of processing, verification and enforcement.

Finally, my recommendation is in no way intended to minimize the efforts of Task Force members and of Michael Granen, Michael Duffey and Carol Sigmann and her staff— all of whom contributed significant time and energy to the firm notification proposal. My heartfelt thanks to all of you, and I look forward to working with you on the tasks still at hand.

## Memorandum

UAA TF Agenda Item III  
May 13, 2004

Board Agenda Item VIII.G.5  
May 14, 2004

To : UAA Task Force Members  
Board Members

Date : May 3, 2004

Telephone : (916) 263-3981

Facsimile : (916) 263-3674

From : Renata M. Sos, Chair  
UAA Task Force

Subject : Draft Statutes Implementing Practice Privileges in the State of California

Under current California law, an out-of-state practitioner who is not licensed in this state may *temporarily* practice in California (without the knowledge of and outside the disciplinary authority of this Board), so long as the practice is *incidental* to the individual's regular practice. Neither "temporary" nor "incidental" is defined in statute or regulation; thus, the determination is left to the subjective judgment of the practitioner. While it is impossible to quantify the number of practitioners who enter California under this provision, this Board and the UAA Task Force have received extensive anecdotal evidence that lawful "incidental practice" is commonplace. Indeed, as the attached letter from Moss-Adams LLP (a sizable Pacific Northwest CPA firm) indicates, firms currently are using the "temporary practice" provision as a way – lawfully, but without regulation by this Board – to "involve partners from other offices or firms located in other states to properly complete engagements." (See Attachment C.)

We can reasonably expect that the influx of out-of-state CPAs under the existing "incidental practice" provision will, at a minimum, continue at current levels, if not increase. As discussed at our last Board meeting, Sarbanes-Oxley mandated partner rotation will begin as early as the end of 2004, thus potentially increasing significantly the number of out-of-state CPAs seeking to practice temporarily in California.

It is against this backdrop that the UAA Task Force, at the Board's direction, has developed recommendations for a process under which out-of-state licensees, who otherwise could and would lawfully practice in California under the "temporary practice" statute, would instead provide to the Board written notice of their presence and subject themselves to the full breadth of the Board's disciplinary jurisdiction. Toward that end, the Task Force has been guided by the principles of maximizing consumer protection, maximizing licensee compliance, maximizing enforcement and disciplinary authority, and minimizing administrative burden on our able, but overextended staff.

UAA Task Force Members

May 3, 2004

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After multiple meetings, thorough study and deliberation, and extensive input and comment from members of the profession, Board staff, Michael Granen of the California Attorney General's office, and Julie D'Angelo Fellmeth of the Center for Public Interest Law, the Task Force has drafted, for the Board's consideration, statutes (Attachment A) that create a framework under which out-of-state CPAs may practice temporarily and incidentally in this state under a "practice privilege" that is fully under the regulatory and enforcement umbrella of this Board. The essential elements of this proposed framework are as follows:

1. The practice privilege is intended for out-of-state individuals *who are not otherwise required to obtain a license in California*. (See Section 5096, Attachment A.) In other words, the practice privilege is *not* a license; it is *not* a substitute for a license; it is *not* an alternative "pathway" to licensure; and it does *not* include all the rights and benefits that are accorded California licensees.

2. The practice privilege is available only to *individuals* who attest, under penalty of perjury, that they meet California's requirements for the privilege. Firms, corporations or partnerships are not eligible for a practice privilege. (The Task Force had considered a process under which firms could provide a "blanket notification" for multiple employees. I have recommended that the Board defer any further consideration of that concept, for reasons set forth in my memorandum of April 15, 2004.)

3. To qualify for a practice privilege, an individual: (1) cannot have his or her principal place of business or an office (other than through a registered firm) in California; (2) must (a) have a valid license in another jurisdiction and that license, or the individual's qualifications, must be deemed by this Board to be "substantially equivalent" or (b) have practiced public accountancy under a valid license for four of the last ten years; (3) must promise to follow California's laws and this Board's regulations; (4) must subject him or herself to the jurisdiction of this Board and promise to respond fully and promptly to any inquiries from this Board; and (5) must not have any disqualifying conditions, such as criminal convictions or pending investigations by state or federal entities concerning the individual's professional conduct. (Section 5096.)

4. The privilege to practice commences at the filing of the notice and contemporaneous submission of a fee. The Board is empowered, however, to take immediate action against anyone who runs afoul of the notification requirements or applicable laws: specifically, the Board may suspend, *without notice or hearing*, an individual's practice privilege. (Section 5096.4.) Taken together, these provisions facilitate cross-border movement of qualified individuals, avoid undue administrative burdens on our staff, and enhance consumer protection by giving this Board swift enforcement authority.

5. The practice privilege is temporary – it expires after one year. An out-of-state licensee must re-notify the Board on an annual basis and demonstrate continued eligibility for and compliance with the requirements for a practice privilege. (Section 5096(e).)

6. An individual may *not sign* an attest report pursuant to a practice privilege unless the individual meets California's experience requirements for signing attest reports and satisfies any other conditions that this Board might impose by regulation. (Section 5096.5.) The Task Force believes that this proposed provision enhances consumer protection, is fair to California licensees, and does not create an impediment to cross-border movement of qualified individuals who wish to sign attest reports.

7. The proposed statutes would repeal the current temporary practice provision (Section 5050) on January 1, 2006 – at which point the practice privilege would be fully available. Consequently, all out-of-state CPAs who wished to practice in California would be required either to obtain a license or a practice privilege, depending on the facts and circumstances of their practice. Thus, as of January 1, 2006, out-of-state licensees could no longer practice in California without notification or application to this Board.

8. This is proposed as a pilot program, subject to an anticipated Sunset Date of January 1, 2010, by which point this Board and the Legislature – based on an assessment of the consumer protection benefits and administrative costs of the practice privilege process -- will determine whether the program merits extension.

While the draft statutes provide the framework for the practice privilege, the details of process implementation are left to regulation. Toward that end, the Task Force has throughout its deliberations identified issues to be covered by regulation. Simultaneously, the Task Force has created a proposed form, which would be used by individuals to notify the Board and demonstrate eligibility for a privilege to practice. That draft form is provided as Attachment B and, should the Board decide to proceed with the practice privilege concept, would be refined and augmented during the process of drafting regulations.

Attachments

## CALIFORNIA ACCOUNTANCY ACT

### Amendments to Establish Practice Privileges

**Article 5.1 is added to the Accountancy Act as follows:**

#### **ARTICLE 5.1 PRACTICE PRIVILEGES**

##### **Section 5096-Practice Privileges**

(a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate or permit to practice public accountancy from another state may, subject to the conditions and limitations in this Article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual:

(1) has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least four of the last ten years; or

(2) has a license, certificate, or permit from a state which had been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093; or

(3) possesses education, examination, and experience qualifications for licensure which have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

*Comment: Section 5096 sets out the basic requirements for an CPA licensed in another state, who otherwise would not be required to obtain a California license, to practice public accountancy in California under a practice privilege. Subdivision (a) describes the requirements that must be met for an individual to qualify for a practice privilege. The individual must hold a valid and current license in another state and must not have his or her principal place of business in California. In addition, the individual's professional qualifications must meet one on the requirements in paragraphs (1), (2) or (3) of subdivision (a).*

*Paragraph (1) of subdivision (a) would qualify an individual for a practice privilege if he or she has been practicing as a CPA for four of the last ten years. This "four of ten" rule is already included in Sections 12 and 12.5 of the Board's Regulations to assess the qualifying experience of out-of-state CPAs applying for a California licensure. NASBA's March 2004 Exposure Draft (before the Board at its May 14, 2004 meeting) proposes incorporating this standard into the Uniform Accountancy Act Rules for practice privileges. The adoption of the "four of ten" rule by other states*

for the purposes of substantial equivalency would permit qualified California Pathway 1 licensees, who presently are considered not substantially equivalent, to practice in those states.

Paragraph (2) of subdivision (a) provides a second option for qualifying for a practice privilege: the individual holds a license from a state that has licensure requirements substantially equivalent to those in Section 5093 of the Accountancy Act. Section 5093 contains requirements that NASBA has deemed to be substantially equivalent to the UAA. At present, 46 states are considered by NASBA to be "substantially equivalent" to the UAA.

Paragraph (3) of subdivision (a) provides a third option for qualifying for a practice privilege: the individual would need to have education, exam, and experience qualifications substantially equivalent to Section 5093. This standard is currently in the UAA as a method of qualifying an individual for a practice privilege when that individual is not licensed by a "substantially equivalent" state.

To be eligible for a practice privilege, an individual would only have to meet one of the three requirements. Most individuals seeking a practice privilege would probably qualify because they are from substantially equivalent states (paragraph 2). At the November 2003 Board meeting, NASBA representatives indicated that 46 states were "substantially equivalent" – meaning that their licensure requirements have been deemed by NASBA to be substantially equivalent to the education, examination, and experience requirements in the UAA.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities as satisfying the requirements of paragraph (3) of subdivision (a).

**Comment:** Subdivision (b) permits the Board to designate states as "substantially equivalent" under paragraph (a)(2) and to remove states from the list if the requirements in that state change. The Board could choose by regulation to adopt NASBA's list of substantially equivalent states. Subdivision (b) also permits the Board to utilize the credentialing and verification services of an entity such as NASBA's CredentialNet. NASBA's CredentialNet assesses – subject to the direction and review of the state accountancy board utilizing the service – the qualifications of individuals from non-substantially equivalent states to determine if their education, exam, and experience are substantially equivalent to the education, exam, and experience requirements in the UAA.

(c) To obtain a practice privilege under this Section, an individual who meets the requirements of Subsection (a), must do the following:

(1) in the manner prescribed by board regulation, notify the board of the individual's intent to practice; and

(2) pay a fee as provided in Article 8 (commencing with Section 5130).

The practice privilege commences when the individual notifies the board, provided the fee is received by the board within 30 days of that date.

*Comment: Subdivision (c), gives the Board authority to establish the notification process and set a fee by regulation. The UAA Task Force envisions an on-line, interactive form which will speed and simplify the process of providing notification. However, because of the challenges involved in being able to accept credit card payments, fees will have to be sent separately by check. While the notice could take effect immediately, a thirty day period is allowed for the Board to receive the fee. If the fee is not received within the 30 day time period, it will be the same as if the licensee never held the practice privilege. This provision is intended to address a situation in which the licensee gives notice, but fails to submit the fee.*

(d) An individual who holds a practice privilege under this Article:

(1) is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state;

(2) shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state, except such individual is deemed, solely for the purpose of this Article, to have met the continuing education requirements and ethics examination requirements of this state when such individual has met the examination and continuing education requirements of the state in which the individual holds the valid license, certificate or permit on which the substantial equivalency is based;

(3) shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This subsection does not apply to public accountancy services provided to a client at the client's place of business or residence;

(4) is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas or other process may be served in any action or proceeding by the board against the individual; and

(5) shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand or subpoena for information or documents and timely provide to the board the identified information and documents.

*Comment: Subdivision (d) lays out the obligations of any holder of a practice privilege. Paragraph (1) subjects the practice privilege holder to the authority and jurisdiction of the Board and California courts. At present, neither the Board nor the California courts have jurisdiction over out-of-state CPAs who are practicing in California under the temporary practice provision (Section 5050) unless the out-of-state CPA is issued a criminal citation. Paragraph (2) requires compliance with the laws and standards governing California licensees. A CPA practicing under a practice privilege would be deemed to have met the Board's continuing education (CE) and ethics exam requirements if that person met the examination and CE requirements in his or her home state. This clause was added to address concern that different states have slightly different CE requirements, and to facilitate cross-border practice for qualified individuals who have satisfied the CE requirements in their home states. Paragraph (3) prohibits opening or maintaining an office in California under a practice privilege other than through a firm that is registered in California. This is intended to prevent a person from using a practice privilege to circumvent California's licensure and firm registration requirements.*

(e) A practice privilege expires one year from the date of the notice.

*Comment: Subdivision (e) provides for expiration of the practice privilege one year from the date of the notice. The individual must then apply for a new practice privilege. There are no statutory restrictions on the number of times a qualified individual can give notice, although the Task Force noted that monitoring for abuse of the practice privilege (through repeated notifications in lieu of licensure) might be considered. The Task Force considered a renewal provision. However, since the same information would be required for renewal as for the initial notification, the Task Force concluded a renewal provision was unnecessary and likely to be confusing.*

(f) (1) No individual may practice under a practice privilege without prior approval of the board if the individual has, or acquires at any time during the term of the practice privilege, any disqualifying condition under paragraph (2) of this subdivision.

(2) Disqualifying conditions include:

- (A) conviction of any crime other than a minor traffic violation;
- (B) revocation, suspension, denial, surrender or other discipline or sanctions involving of any license, permit, registration, certificate or other authority to practice any profession in this or any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board;

(C) tendency of any investigation, inquiry or proceeding by or before any state, federal or local court or agency, including, but not limited to, the Public

Company Accounting Oversight Board, involving the professional conduct of the individual;

(D) any judgment or arbitration award against the individual involving the professional conduct of the individual in the amount of \$30,000 or greater;

(E) such other conditions as specified by the board in regulation.

(3) The Board may adopt regulations exempting specified minor occurrences of the conditions listed in paragraph (2)(B) from being disqualifying conditions under this subdivision.

*Comment: Subdivision (f) sets out disqualifying conditions. These conditions do not result in automatic disapproval, but would require the Board's review and approval before practice under the practice privilege could commence. The procedures for denial of a practice privilege are in Section 5096.2. This section also permits the Board to add to the disqualifying conditions and to exempt from paragraph (2)(B) specified minor infractions (for example, late payment of licensing fees that later was corrected).*

#### **Section 5096.1 (formerly Section 5096.3) – Practice Without Notice**

(a) Any individual, not a licensee of this state, who is engaged in any act which is the practice of public accountancy in this state, and who has not given notice of intent to practice under practice privileges and paid the fee required pursuant to the provisions of this Article, and who has a license, certificate or other authority to engage in the practice of public accountancy in any other state, regardless of whether active, inactive, suspended, or subject to renewal on payment of a fee or completion of an educational or ethics requirement, is:

(1) deemed to be practicing public accountancy unlawfully in this state;

(2) subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state to the same extent as a holder of a valid practice privilege; and

(3) deemed to have appointed the regulatory agency of the state that issued the individual's certificate or license as the individual's agent on whom notice, subpoenas or other process may be served in any action or proceeding by the board against the individual.

(b) The board may prospectively deny a practice privilege to any individual who has violated this section or implementing regulations or committed any act which would be grounds for discipline against the holder of a practice privilege.

*Comment: This section brings under the "practice privilege umbrella" licensees of other states who practice in California without giving notice and paying the required fee. This section allows the Board to apply the disciplinary provisions related to practice privileges set out in Section 5096.3 to these individuals, rather than relying on provisions related to unlicensed practice which generally involve*

referral to city or county district attorneys. Action taken under this section can be communicated to the licensee's home state which may choose to further discipline the licensee. Subdivision (b) of this section parallels provisions in the Accountancy Act related to subversion of the examination (Sections 5110 - 5115).

### **Section 5096.2 (formerly Section 5096.4) - Denial of Practice Privileges.**

(a) Practice privileges may be denied for failure to qualify under or comply with the provisions of this Article or implementing regulations, or for any act that if committed by an applicant for licensure would be grounds for denial of a license under Section 480 or if committed by a licensee would be grounds for discipline under Section 5100, or for any act committed outside of this state that would be a violation if committed within this state.

(b) The board may deny practice privileges using either of the following procedures:

(1) Notifying the individual in writing of all of the following:

(A) that the practice privilege is denied;

(B) the reasons for denial;

(C) the earliest date on which the individual is eligible for a practice privilege;

(D) that the individual has a right to appeal the notice and request a hearing under the provisions of the Administrative Procedure Act if a written notice of appeal and request for hearing is made within 60 days;

(E) that, if the individual does not submit a notice of appeal and request for hearing within 60 days, the board's action set forth in the notice shall become final; or

(2) Filing a statement of issues under the Administrative Procedure Act.

(c) An individual who had been denied a practice privilege may apply for a new practice privilege not less than one year after the effective date of the notice or decision denying the practice privilege unless a longer time period, not to exceed three years, is specified in the notice or decision denying the practice privilege.

*Comment: This section addresses the denial of a practice privilege because the individual is not qualified to practice. It describes the procedure that would be used if the Board decided to deny a privilege because of the occurrence of any of the disqualifying conditions in Section 5096(f) or for the other reasons noted in subdivision (a) of this Section. Since it is anticipated that the Board ordinarily would not act to approve each practice privilege notice, most notices would in a sense be "evergreen" applications subject to denial at any time during their one-year term.*

**Section 5096.3 (formerly 5096.5) - Discipline of Practice Privileges**

(a) Practice privileges are subject to revocation, suspension, fine or other disciplinary sanctions for any conduct which would be grounds for discipline against a licensee of the board or for any conduct in violation of this Article or regulations implementing this Article.

(b) Practice privileges are subject to discipline during any time period in which they are valid, under administrative suspension, or expired.

(c) The board may recover its costs pursuant to Section 5107 as part of any disciplinary proceeding against the holder of a practice privilege.

(d) An individual whose practice privilege has been revoked may apply for a new practice privilege not less than one year after the effective date of the board's decision revoking the individual's practice privilege unless a longer time period, not to exceed three years, is specified in board's decision revoking the practice privilege.

(e) The provisions of the Administrative Procedure Act including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the Board shall apply under this Article.

*Comment: This section describes the procedure for disciplining the holder of a practice privilege for any bad act – including misrepresentations on the notification form itself – that occurs at notification and during the time when the practice privileges are held. (This procedure is not to be confused with the administrative suspension provision below which gives the Board the authority to suspend a privilege without notice or hearing.) The procedure is essentially the same as the procedure for disciplining a licensee. The Board's disciplinary action can be communicated to the state board in the licensee's home state which may use this information to initiate further discipline.*

**Section 5096.4 (formerly 5096.6) - Administrative Suspension**

(a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the representations made in the notice, the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this Article.

(c) The administrative suspension order shall contain the following:

- (1) the reason for the suspension;
- (2) a statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing;
- (3) a statement that any appeal hearing will be conducted under the provisions of the Administrative Procedure Act applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the denial of practice privileges;

(d) that the burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer or expiration of the practice privilege under administrative suspension.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state or from applying for a new practice privilege upon expiration of the one under administrative suspension; except that the new practice privilege shall not be effective until approved by the board.

(g) Notwithstanding any administrative suspension, a practice privilege expires one year from the date of notice.

(h) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for denial or discipline of a practice privilege.

*Comment: While the practice privilege commences immediately upon giving notice, the practice privilege may be administratively suspended without a notice or hearing in order to conduct an investigation or proceeding related to the practice privilege. This distinguishes the practice privilege from a license which cannot be suspended without notice and hearing. Administrative suspension is an essential concept for providing consumer protection when allowing licensees from other states to enter and practice through the notification process. Administrative suspension is not discipline, and the holder of the practice privilege can still apply for a license or for a new practice privilege (which would need*

*Board approval to be effective). Administrative suspension is not governed by the Administrative Procedure Act, although any appeal hearing, should the individual choose to pursue one, would be.*

#### **Section 5096.5 (formerly 5096.7) - Signing Attest Reports**

Notwithstanding any other provision of this Article, an individual may not sign any attest report pursuant to a practice privilege unless the individual meets the experience requirements of Section 5095 and completes any continuing education or other conditions required by the board regulations implementing this article.

*Comment: This section is intended to ensure that holders of practice privileges meet basically the same requirements as California licensees in order to sign attest reports. This section also authorizes the Board to adopt regulations specifying CE requirements for practice privilege holders who sign attest reports. The opening provision "Notwithstanding any other provision of this Article" is intended to avoid a potential conflict between the authorization to adopt CE requirements in this section and the CE requirements referenced by Section 5096, subdivision (d) paragraph (2).*

#### **Section 5096.6 (formerly 5096.9) Delegation of Authority, Executive Officer**

In addition to the authority otherwise provided for by this Code, the board may delegate to the executive officer the authority to issue any notice or order provided for in this Article and to act on behalf of the board, including, but not limited to issuing a notice of denial of a practice privilege and an interim suspension order, subject to the right of the individual to timely appeal and request a hearing as provided for in this Article.

*Comment: This section provides for the delegation of authority to the executive officer to act on behalf of the Board in actions related to practice privileges.*

#### **Section 5096.7 (formerly 5096.10) - Definitions**

Except as otherwise provided in this Article the following definitions apply:

(a) Anywhere the term "license," "licensee," "permit" or "certificate" is used in this chapter or Division 1.5 of this Code it shall include persons holding practice privileges under this Article, unless otherwise inconsistent with the provisions of the Article.

(b) any notice of practice privileges under this Article and supporting documents is deemed an application for licensure for purposes of the provisions of this Code, including, but not limited to, the provisions of this chapter and the provisions of Division 1.5 related to the denial, suspension and revocation of licenses.

(c) Anywhere the term "employee" is used in this Article it shall include, but is not limited to, partners, shareholders, and other owners:

*Comment: The definitions in subdivisions (a) and (b) allow the Board to apply provisions related to applications for licensure in Division 1.5 and the provisions of the Accountancy Act (including cost recovery) to holders of practice privileges under this Article. "Employee" is defined to make clear that the term includes owners, partners and shareholders of firms. The word "employee" appears in Section 5096, subdivision (d), paragraph (3).*

**Section 5096.8 (formerly 5096.11) - Investigative Powers.**

In addition to the authority otherwise provided for by this Code, all investigative powers of the board, including those delegated to the executive officer, shall apply to investigations concerning compliance with, or actual or potential violations of, the provisions of this Article or implementing regulations, including, but not limited to, the power to conduct investigations and hearings by the executive officer under Section 5103 and to issuance of subpoenas under Section 5108.

*Comment: This section extends the investigative powers of the Board to the provisions of this article.*

**Section 5096.9 (formerly 5096.12) – Authority to Adopt Regulations.**

The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this Article.

**Section 5096.10 (formerly 5096.13) – Expenditure Authority.**

The expenditure authority of the California Board of Accountancy is hereby increased by \$\_\_\_\_\_ for one Investigative Certified Public Accountant position and two Office Technician positions and operating expenses for workload associated with the implementation of the Article. This Article shall be implemented only if funds are appropriated in this statute or the annual Budget Act for purposes of this Article.

*Comment: This provision provides for staffing to implement this Article. Because of recent hiring freezes and staffing reductions, the Board's staffing resources are extremely limited and unable to absorb the additional workload that potentially would be generated by enactment of this Article. A dollar amount for the additional staff will be added before this proposal is provided to the Legislature.*

**Section 5096.11 (formerly 5096.14) – Sunset Date:**

This Article shall become operative on January 1, 2006. It shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends that date.

*Comment: The 2006 implementation date is intended to give the Board time after enactment of the statutes to adopt implementing regulations. The 2010 sunset date would give the Board time to implement and collect data on the pilot program before the program is evaluated by the Legislature.*

#### AMENDMENTS NOT PART OF ARTICLE 5.1

Amend Section 5050:

**Section 5050. Practice Without Permit: Temporary Practice, Out-of-State Licensee. (Operative until January 1, 2006.)**

No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board; provided, however, that nothing in this chapter shall prohibit a certified public accountant or a public accountant of another state, or any accountant of a foreign country lawfully practicing therein, from temporarily practicing in this State on professional business incident to his regular practice in another state or country. This section shall remain operative until January 1, 2006, and as of that date is repealed.

**Section 5050. Practice Without Permit: Temporary Practice, Out-of-State Licensee. (Operative on and after January 1, 2006.)**

No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1. ~~; provided, however, that nothing in this chapter shall prohibit a certified public accountant or a public accountant of another state, or any accountant of a foreign country lawfully practicing therein, from temporarily practicing in this State on professional business incident to his regular practice in another state or country.~~ This Section shall become operative on January 1, 2006.

*Comment: This would revise this section to permit practice privilege holders to practice in this state and to eliminate the current temporary practice provision. It includes a January 1, 2006, effective date to be consistent with the effective date of Article 5.1 – that is, it allows temporary practice until such time as the practice privilege concept is fully implemented. At that point, temporary practice would be repealed thus preventing anyone from practicing in the state without notice to the Board.*

Amend Section 5088:

**Section 5088. Out-of-State Certified Public Accountant.**

(a) Any person individual who is the holder of a current, valid and unrevoked license as a certified public accountant issued under the laws of any state and who applies to the board for a license as a certified public accountant under the provisions of Section 5087 may, after application for licensure and after providing evidence of qualifying continuing education, perform the same public accounting services in this state as a certified public accountant licensed under Section 5092 or 5093, until the time his or her the application for a license is granted or rejected denied, practice public accountancy in this state only under a practice privilege pursuant to the provisions of Article 5.1 of this Chapter; except that, for purposes of this section, the individual is not disqualified from a practice privilege by virtue of maintaining an office or principal place of business, or both, in this state. The board may by regulation provide for exemption, credit or prororation of fees to avoid duplication of fees.

(b) An applicant meeting the requirements of subdivision (a) who certifies that he or she has met the requirements of Section 5095 may perform attest services in this state until the time his or her application for a license is granted or rejected.

*Comment: Current Section 5088 permits a licensee from another state who has completed qualifying CE to practice in California while his or her application for licensure is pending. If a bad act is performed while the licensure application is pending, the Board's only recourse today is to deny the application. This revision would allow these applicants to practice only under a practice privilege (after proper notice and fee payment) while their licensure applications are pending and would enable the Board to apply the disciplinary provisions related to practice privileges to these individuals.*

Amend Section 5100:

**Section 5100. – License Discipline.**

After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit, or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

(b) A violation of Section 478, 498, or 499 dealing with false statements or omissions in the application for a license, in obtaining a certificate as a certified public accountant, in obtaining registration under this chapter, or in obtaining a permit to practice public accountancy under this chapter.

(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(d) Cancellation, revocation, or suspension of a certificate or other authority to practice as a certified public accountant or a public accountant, refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.

(e) Violation of Section 5097.

(f) Violation of Section 5120.

(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(h) Suspension or revocation of the right to practice before any governmental body or agency.

(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

(j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

(k) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(l) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation.

(m) Unlawfully engaging in the practice of public accountancy in another state.

*Comment: This revision would enable the Board to discipline a California license for an action committed while practicing under a practice privilege in another state.*

Amend Section 5109:

### **Section 5109 Jurisdiction Over Expired, Cancelled, Forfeited, Suspended, or Surrendered License.**

The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or to proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license.

*Comment: This revision extends the provisions of current law related to the cancellation, forfeiture or suspension of a license to holders of practice privileges so that the Board can discipline an expired practice privilege and communicate that action to the licensee's home state.*

**Amend Section 5134:**

**Section 5134. – Fees:**

The amount of fees prescribed by this chapter is as follows:

(a) The fee to be charged to each applicant for the certified public accountant examination shall be fixed by the board at an amount to equal the actual cost to the board of the purchase or development of the examination, plus the estimated cost to the board of administering the examination and shall not exceed six hundred dollars (\$600). The board may charge a reexamination fee equal to the actual cost to the board of the purchase or development of the examination or any of its component parts, plus the estimated cost to the board of administering the examination and not to exceed seventy-five dollars (\$75) for each part that is subject to reexamination.

(b) The fee to be charged to out-of-state candidates for the certified public accountant examination shall be fixed by the board at an amount equal to the estimated cost to the board of administering the examination and shall not exceed six hundred dollars (\$600) per candidate.

(c) The application fee to be charged to each applicant for issuance of a certified public accountant certificate shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the certificate and shall not exceed two hundred fifty dollars (\$250).

(d) The application fee to be charged to each applicant for issuance of a certified public accountant certificate by waiver of examination shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the certificate and shall not exceed two hundred fifty dollars (\$250).

(e) The fee to be charged to each applicant for registration as a partnership or professional corporation shall be fixed by the board at an amount equal to the estimated administrative cost to the board of processing and issuing the registration and shall not exceed two hundred fifty dollars (\$250).

(f) The board shall fix the biennial renewal fee so that, together with the estimated amount from revenue other than that generated by subdivisions (a) to (e), inclusive, the reserve balance in the board's contingent fund shall be equal to approximately six months of annual authorized expenditures. Any increase in the renewal fee made after July 1, 1990, shall be effective upon a determination by the board, by regulation

adopted pursuant to subdivision (k), that additional moneys are required to fund authorized expenditures other than those specified in subdivisions (a) to (e), inclusive, and maintain the board's contingent fund reserve balance equal to six months of estimated annual authorized expenditures in the fiscal year in which the expenditures will occur. The biennial fee for the renewal of each of the permits to engage in the practice of public accountancy specified in Section 5070 shall not exceed two hundred fifty dollars (\$250).

(g) The delinquency fee shall be 50 percent of the accrued renewal fee.

(h) The initial permit fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the permit is issued, except that, if the permit is issued one year or less before it will expire, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued. The board may, by regulation, provide for the waiver or refund of the initial permit fee where the permit is issued less than 45 days before the date on which it will expire.

(i) The annual fee to be charged an individual for a practice privilege pursuant to Section 5096 shall be fixed by the Board at an amount not to exceed 50 percent of the biennial renewal fee provided for in subdivision (f).

~~(j)~~ (i) The fee to be charged for the certification of documents evidencing passage of the certified public accountant examination, the certification of documents evidencing the grades received on the certified public accountant examination, or the certification of documents evidencing licensure shall be twenty-five dollars (\$25).

~~(k)~~ (k) The actual and estimated costs referred to in this section shall be calculated every two years using a survey of all costs attributable to the applicable subdivision.

~~(l)~~ (l) Upon the effective date of this section the board shall fix the fees in accordance with the limits of this section and, on and after July 1, 1990, any increase in any fee fixed by the board shall be pursuant to regulation duly adopted by the board in accordance with the limits of this section.

~~(m)~~ (m) Fees collected pursuant to subdivisions (a) to (e) inclusive, shall be fixed by the board in amounts necessary to recover the actual costs of providing the service for which the fee is assessed, as projected for the fiscal year commencing on the date the fees become effective.

*Comment: This revision permits the Board to charge a fee for practice privileges. The Task Force concluded that the fee should be the same, on an annual basis, as the renewal fee to be equitable to California licensees, to adequately fund the Board's Enforcement Program, and to provide for consistency with the fees charged by most other jurisdictions.*



CALIFORNIA BOARD OF ACCOUNTANCY

2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3675
WEB ADDRESS: http://www.dca.ca.gov/cba



DRAFT

Attachment B

NOTIFICATION AND AGREEMENT TO CONDITIONS FOR THE PRIVILEGE TO PRACTICE PUBLIC ACCOUNTING IN CALIFORNIA PURSUANT TO CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION XXXX:

Name: \_\_\_\_\_

Prior Names: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address Of Principal Place Of Business: \_\_\_\_\_

Telephone Number (business hours): \_\_\_\_\_

Fax Number (business hours): \_\_\_\_\_

E-Mail: \_\_\_\_\_
(To facilitate contact in the event of a problem processing your application)

Date Of Birth: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

In connection with this privilege to practice, I wish to be able to sign a report on an attest engagement. [ ] Yes [ ] No

QUALIFICATION REQUIREMENTS: I qualify for a privilege to practice public accounting in California because:

- 1. I am an individual.
2. My principal place of business is not in California and I do not have an office in California other than through a firm that is registered in California and of which I am an employee.
3. I have a valid license to practice public accounting in the state/jurisdiction of my principal place of business.

State/Jurisdiction: \_\_\_\_\_ License Number: \_\_\_\_\_ Date Issued: \_\_\_\_\_

- 4. a. The state/jurisdiction identified in item 3 above is deemed substantially equivalent by the California Board of Accountancy (see Appendix 1 for list of substantially equivalent states); OR

- b. My individual qualifications have been determined by NASBA to be substantially equivalent (NASBA file no. 1001) OR
- c. I have continually practiced public accountancy as a certified public accountant under a valid license issued by any state for 4 of the last 10 years.

5. I understand that I may sign a report on an attest engagement under this privilege to practice only if I meet California's requirements to sign attest reports.

6. I agree to abide by the laws of the State of California, including the California Accountancy Act (Business and Professions Code Section 5000 et seq., accessible at [http://www.dca.ca.gov/cba/acnt\\_act.htm](http://www.dca.ca.gov/cba/acnt_act.htm)) and the regulations thereunder (accessible at <http://www.dca.ca.gov/cba/regs.htm>).

7. I consent to the personal and subject matter jurisdiction of the California Board of the Accountancy (CBA) including, but not limited to, the following:
- To suspend or revoke, without prior notice or hearing and in the sole discretion of the CBA or its representatives, the privilege to practice public accounting;
  - To impose discipline for any violation of the California Accountancy Act or regulations thereunder and recover costs for investigation and prosecution; and
  - To provide information relating to a practice privilege and/or refer any additional and further discipline to the board of accountancy of any other state and/or the SEC, PCAOB or other relevant regulatory authorities.

8. I agree to respond fully and completely to all inquiries by the CBA relating to my California practice privilege.

9. I consent to the authority of the CBA to verify the accuracy and truthfulness of the information provided in this notification. I consent to the release of all information relevant to the CBA's inquiries now or in the future by:
- Contacting other states;
  - Contacting the SEC, PCAOB or any other federal agency before which I am authorized to practice; and
  - Contacting NASBA.

10. I am submitting this form to the CBA at or before the time work begins under this practice privilege.

11. In the event that any of the information in this notice changes, I will provide the CBA written notice of any such change within 30 days of its occurrence.

12. I am concurrently submitting the fee of \$100.00.

**ADDITIONAL INFORMATION:**

In addition to the state of my principal place of business, I am also authorized to practice in the following states or jurisdictions.

State/Jurisdiction: _____	License Number: _____	Other Authority: _____
State/Jurisdiction: _____	License Number: _____	Other Authority: _____

Please check any of the items below that apply. *For any checked items in (1)-(4), you must provide additional information as requested in Attachment X and you are not authorized to practice in California unless and until you receive notice from the California Board of Accountancy that the privilege has been granted.*

- 1. I have been convicted of a crime other than a minor traffic violation.
- 2. I have had a license, registration, permit or authority to practice surrendered, denied, suspended, revoked, put on probationary status or otherwise limited.
- 3. I am currently the subject of an investigation, inquiry or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving my professional conduct.
- 4. I have had a judgment or arbitration award in an amount greater than \$30,000 entered against me in a civil action alleging actionable conduct in the practice of public accountancy.

I, \_\_\_\_\_, understand that any misrepresentation or omission in connection with this notification is cause for termination of any practice privilege in California and that the California Board of Accountancy will act accordingly, including the notification of other state or federal authorities. I understand that this privilege to practice public accounting expires one year from the date of this notice. I certify under penalty of perjury under the laws of the state of California that the foregoing information is true and correct.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*Your privilege to practice commences with the filing of your completed notification, including payment of your fee. If you do not submit your payment within 30 days of this notification, you do not hold a valid practice privilege.*

**Privacy Statement:**

The information provided in this form will be used by the California Board of Accountancy to determine whether you qualify for practice privileges in California. Sections 5080 through 5095 of the Business and Professions Code authorize the collection of this information. Failure to provide any of the required information is grounds for rejection of the notification as being incomplete. Information provided may be transferred to the Department of Justice, a District Attorney, a City Attorney, or to another governmental agency as may be necessary to permit the Board, or the transferee agency, to perform its statutory or constitutional duties, or otherwise transferred or disclosed as provided in Civil Code Section 1798.24. Each individual has the right to review his or her file, except as otherwise provided by the Information Practices Act. The Executive Officer of the California Board of Accountancy is responsible for maintaining the information in this application, and may be contacted via written correspondence at 2000 Evergreen Street, Suite 250, Sacramento, CA 95815, or by calling (916) 263-3680, regarding questions about this notice or access to records.



CALIFORNIA BOARD OF ACCOUNTANCY
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ATTACHMENT X

1. If you checked items 1, 2, or 3 under additional information, please provide explanatory details:

2. If you checked item 4 under additional information, please provide:

Date of Judgment/ Arbitration Award: \_\_\_\_\_ Jurisdiction /Court: \_\_\_\_\_ Docket No: \_\_\_\_\_

April 6, 2004

Ms. Mary Crocker  
California Board of Accountancy  
2000 Evergreen, Suite 250  
Sacramento, CA 95825

By e-mail: [mcrocker@cba.ca.gov](mailto:mcrocker@cba.ca.gov)

*Re: Incidental Practice in California*

Dear Ms. Crocker:

Moss Adams recently became aware of a plan by the California Board of Accountancy (CBA) UAA Committee to propose significant regulatory requirements over firms and individual CPAs who engage in "incidental" practice of public accountancy in California. Moss Adams objects to the notion that additional regulation is necessary, and respectfully suggests that the UAA Committee revisit the decision to require registration of individuals or firms with individuals who occasionally have a need to practice in California.

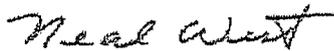
The proposed regulation will add unnecessary burden for CPAs or CPA firms. The increasing complexity of professional and accounting standards, when combined with the increasing needs of clients in specialized industries, from time to time leads to a conclusion that it is appropriate and necessary to involve partners from other offices or firms located in other states to properly complete engagements. This is done in the best interest of the client and the CPA firm, and not to circumvent the requirement that CPAs practicing in California be licensed by the CBA. Involvement of partners or practitioners from other states in this capacity truly meets almost any definition of "incidental" practice, and adding a layer of regulations to monitor what amounts to very little time in the overall practice of public accountancy will not serve to better protect consumers in California. In fact, it could have the opposite effect if firms or individual CPAs from other states decline to consult with colleagues in California because of the requirement to register for incidental practice.

The proposed regulation is also unnecessarily costly, and may not achieve the desired effect of protecting consumers in California. To better serve clients in California and ensure the highest quality of service consistent with the requirements of firm and professional standards, it is sometimes necessary for CPAs licensed in other states to be part of a client service team. Their involvement is necessarily limited by competitive fee and expense constraints (clients do not usually agree to pay for travel relating to out of area personnel), and the fact that most CPAs have practices in their "home" states. However, with e-mail, facsimile and other forms of near-instant communications, it is often desirable to have these individuals provide assistance on engagements performed for clients domiciled in California. Typically, such involvement is

limited to serving as a "concurring reviewer" on financial statement or tax return engagements, or in some other capacity as an expert being consulted on a technical matter. Many firms – big and small – face this same problem. The proposed regulation would effectively penalize firms for using qualified personnel from other states – even if the personnel never actually enter California – by imposing registration and the payment of a fee.

We respectfully submit this objection to the proposed regulation for your consideration. Should you have any questions, please do not hesitate to contact me at 206-442-2378 or by e-mail at [neal.west@mossadams.com](mailto:neal.west@mossadams.com).

Sincerely,



Neal West, Director of Assurance Services  
For Moss Adams LLP

AMENDED IN ASSEMBLY JULY 2, 2004  
AMENDED IN ASSEMBLY JUNE 16, 2004  
AMENDED IN ASSEMBLY JUNE 14, 2004

**SENATE BILL**

**No. 1543**

**Introduced by Senator Figueroa**

February 19, 2004

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An act to amend Sections 5000, 5015.6, 5076, 5100, 5109, 5134, and 22253.2 of, to amend, repeal, and add Sections 5050 and 5088 of, to add Sections 5025.2, 5025.3, 5063.3, and 22252.1 to, and to add Article 5.1 (commencing with Section 5096) and Article 6.5 (commencing with Section 5116) to Chapter 1 of Division 3 of, the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1543, as amended, Figueroa. California Board of Accountancy.

(1) Existing law provides for the licensing and regulation of accountants by the California Board of Accountancy in the Department of Consumer Affairs. The provisions creating the board, specifying the board's composition, and authorizing the board to appoint an executive officer become inoperative on July 1, 2005, and are repealed on January 1, 2006.

This bill would change these dates to provide that the provisions become inoperative on July 1, 2011, and are repealed on January 1, 2012. The bill would require the Department of Finance, notwithstanding specified provisions in the Budget Act, to authorize up to \$2,000,000 dollars in additional expenditures for the board's enforcement and litigation activities. The bill would require funds for

these expenditures to be payable from the Accountancy Fund, which is a continuously appropriated fund. The bill would authorize funds to be encumbered in any fiscal year in which the board enters into a contract for litigation or enforcement purposes, *as specified*. The bill would require funds encumbered for these purposes to be continuously appropriated. The bill would enact provisions authorizing an individual whose principal place of business is not in this state, and who has a valid and current license, certificate, or permit to practice public accountancy from another state, to engage in the practice of public accountancy in this state under certain conditions. The bill would also prohibit a licensed accountant from disclosing confidential information concerning a client or a prospective client without obtaining the client's written permission. The bill would authorize the board to assess specified administrative penalties and would require fees from those penalties to be deposited in the Accountancy Fund.

(2) Existing law requires a tax preparer, prior to rendering any tax preparation service, to provide a customer with specified information in writing. A violation of the laws regulating tax preparers is a crime.

This bill would prohibit a tax preparer from disclosing confidential information concerning a client or a prospective client without obtaining the client's written permission.

Because a violation of the bill by a tax preparer would be a crime, it would impose a state-mandated local program.

(3) Existing law authorizes the Franchise Tax Board, when it identifies an individual who has violated specific provisions regulating tax preparers, to notify the California Tax Education Council, which is required to notify the Attorney General, a district attorney, or a city attorney. Existing law authorizes these entities to cite a violating individual, levy a fine of up to \$1,000 per violation, and issue a cease and desist order.

This bill would instead require that the Franchise Tax Board notify the California Tax Education Council when it identifies a violation. The bill would delete the requirement that the council notify the Attorney General, a district attorney, or a city attorney. The bill instead would authorize the Franchise Tax Board to cite a violating individual, levy a fine of up to ~~\$1,000~~ \$5,000 per violation, and issue a cease and desist order.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5000 of the Business and Professions  
2 Code is amended to read:

3 5000. There is in the Department of Consumer Affairs the  
4 California Board of Accountancy, which consists of 15 members,  
5 seven of whom shall be licensees, and eight of whom shall be  
6 public members who shall not be licentiates of the board or  
7 registered by the board. The board has the powers and duties  
8 conferred by this chapter.

9 The Governor shall appoint four of the public members, and the  
10 seven licensee members as provided in this section. The Senate  
11 Rules Committee and the Speaker of the Assembly shall each  
12 appoint two public members. In appointing the seven licensee  
13 members, the Governor shall appoint members representing a  
14 cross section of the accounting profession with at least two  
15 members representing a small public accounting firm. For the  
16 purposes of this chapter, a small public accounting firm shall be  
17 defined as a professional firm that employs a total of no more than  
18 four licensees as partners, owners, or full-time employees in the  
19 practice of public accountancy within the State of California.

20 This section shall become inoperative on July 1, 2011, and as of  
21 January 1, 2012, is repealed, unless a later enacted statute, that  
22 becomes effective on or before January 1, 2012, deletes or extends  
23 the dates on which this section becomes inoperative and is  
24 repealed. The repeal of this section renders the board subject to the  
25 review required by Division 1.2 (commencing with Section 473).  
26 However, the review of the board shall be limited to reports or  
27 studies specified in this chapter and those issues identified by the  
28 Joint Committee on Boards, Commissions, and Consumer  
29 Protection and the board regarding the implementation of new  
30 licensing requirements.

1 SEC. 2. Section 5015.6 of the Business and Professions Code  
2 is amended to read:

3 5015.6. The board may appoint a person exempt from civil  
4 service who shall be designated as an executive officer and who  
5 shall exercise the powers and perform the duties delegated by the  
6 board and vested in him or her by this chapter.

7 This section shall become inoperative on July 1, 2011, and, as  
8 of January 1, 2012, is repealed, unless a later enacted statute,  
9 which becomes effective on or before January 1, 2012, deletes or  
10 extends the dates on which it becomes inoperative and is repealed.

11 SEC. 3. Section 5025.2 is added to the Business and  
12 Professions Code, to read:

13 5025.2. (a) The Legislature finds that there are occasions  
14 when the California Board of Accountancy urgently requires  
15 additional expenditure authority in order to fund unanticipated  
16 enforcement and litigation activities. Without sufficient  
17 expenditure authority to obtain the necessary additional resources  
18 for urgent litigation and enforcement matters, the board is unable  
19 to adequately protect the public. Therefore, it is the intent of the  
20 Legislature that, apart from, and in addition to, the expenditure  
21 authority that may otherwise be established, the California Board  
22 of Accountancy shall be given the increase in its expenditure  
23 authority in any given current fiscal year that is authorized by the  
24 Department of Finance pursuant to the provisions of subdivision  
25 (b) of this section, for costs and services in urgent litigation and  
26 enforcement matters, including, but not limited to, costs for  
27 professional and consulting services and for the services of the  
28 Attorney General and the Office of Administrative Hearings.

29 (b) Notwithstanding Control Section 27.00 of the annual  
30 Budget Act, Section 11006 of the Government Code, and the  
31 amount listed in the annual Budget Act for expenditure, the  
32 Department of Finance shall authorize up to two million dollars  
33 (\$2,000,000) in additional expenditures for the California Board  
34 of Accountancy upon a showing by the board that those funds are  
35 necessary for public protection and that the shortfall was not  
36 anticipated. These additional expenditures shall be payable from  
37 the Accountancy Fund for purposes of the board's litigation or  
38 enforcement activities in any given current fiscal year.

39 SEC. 4. Section 5025.3 is added to the Business and  
40 Professions Code, to read:

1 5025.3. (a) Whenever the board enters into a contract for  
2 litigation or enforcement purposes, including, but not limited to,  
3 contracts pursuant to Section 5025.1, funds may be encumbered  
4 in the fiscal year the contract is executed and expended at any time  
5 during the subsequent 24 months commencing with the last day of  
6 the fiscal year in which the contract is executed.

7 (b) Notwithstanding Section 13340 of the Government Code,  
8 funds encumbered for a contract pursuant to subdivision (a) of this  
9 section are continuously appropriated without regard to fiscal  
10 year, however, the appropriation is limited to the period for which  
11 funds are authorized to be encumbered under subdivision (a).

12 SEC. 5. Section 5050 of the Business and Professions Code  
13 is amended to read:

14 5050. (a) No person shall engage in the practice of public  
15 accountancy in this state unless such person is the holder of a valid  
16 permit to practice public accountancy issued by the board;  
17 provided, however, that nothing in this chapter shall prohibit a  
18 certified public accountant or a public accountant of another state,  
19 or any accountant of a foreign country lawfully practicing therein,  
20 from temporarily practicing in this state on professional business  
21 incident to his regular practice in another state or country.

22 (b) This section shall become inoperative on January 1, 2006,  
23 and as of that date is repealed.

24 SEC. 6. Section 5050 is added to the Business and Professions  
25 Code, to read:

26 5050. (a) No person shall engage in the practice of public  
27 accountancy in this state unless the person is the holder of a valid  
28 permit to practice public accountancy issued by the board or a  
29 holder of a practice privilege pursuant to Article 5.1 (commencing  
30 with Section 5096).

31 (b) This section shall become operative on January 1, 2006.

32 SEC. 7. Section 5063.3 is added to the Business and  
33 Professions Code, to read:

34 5063.3. (a) No confidential information obtained by a  
35 licensee, in his or her professional capacity, concerning a client or  
36 a prospective client shall be disclosed by the licensee without the  
37 written permission of the client or prospective client, except the  
38 following:

39 (1) Disclosures made by a licensee in compliance with a  
40 subpoena or a summons enforceable by order of a court.

1 (2) Disclosures made by a licensee regarding a client or  
2 prospective client to the extent the licensee reasonably believes it  
3 is necessary to maintain or defend himself or herself in a legal  
4 proceeding initiated by the client or prospective client.

5 (3) Disclosures made by a licensee in response to an official  
6 inquiry from a federal or state government regulatory agency.

7 (4) Disclosures made by a licensee or a licensee's duly  
8 authorized representative to another licensee in connection with a  
9 proposed sale or merger of the licensee's professional practice.

10 (5) Disclosures made by a licensee to either of the following:

11 (A) Another licensee to the extent necessary for purposes of  
12 professional consultation.

13 (B) Organizations that provide professional standards review  
14 and ethics or quality control peer review.

15 (6) Disclosures made when specifically required by law.

16 (b) In the event that confidential client information may be  
17 disclosed to persons or entities outside the United States of  
18 America in connection with the services provided, the licensee  
19 shall inform the client *in writing* and obtain the client's written  
20 permission for the disclosure.

21 SEC. 8. Section 5076 of the Business and Professions Code  
22 is amended to read:

23 5076. (a) In order to renew its registration, a firm providing  
24 attest services, other than a sole proprietor or a small firm as  
25 defined in Section 5000, shall complete a peer review prior to the  
26 first registration expiration date after ~~January 1, 2006~~ *July 1, 2008*,  
27 and no less frequently than every three years thereafter.

28 (b) For purposes of this article, the following definitions apply:

29 (1) "Peer review" means a study, appraisal, or review  
30 conducted in accordance with professional standards of the  
31 professional work of a licensee or registered firm by another  
32 licensee unaffiliated with the licensee or registered firm being  
33 reviewed. The peer review shall include, but not be limited to, a  
34 review of at least one attest engagement representing the highest  
35 level of service performed by the firm and may include an  
36 evaluation of other factors in accordance with requirements  
37 specified by the board in regulations.

38 (2) "Attest services" include an audit, a review of financial  
39 statements, or an examination of prospective financial

1 information, provided, however, "attest services" shall not  
2 include the issuance of compiled financial statements.

3 (c) The board shall adopt regulations as necessary to  
4 implement, interpret, and make specific the peer review  
5 requirements in this section, including, but not limited to,  
6 regulations specifying the requirements for the approval of peer  
7 review providers, and regulations establishing a peer review  
8 oversight committee.

9 (d) The board shall review whether to implement the program  
10 specified in this section in light of the changes in federal and state  
11 law or regulations or professional standards, and shall report its  
12 findings to the Legislature and the department by September 1,  
13 2005.

14 SEC. 9. Section 5088 of the Business and Professions Code  
15 is amended to read:

16 5088. (a) Any person who is the holder of a valid and  
17 unrevoked license as a certified public accountant issued under the  
18 laws of any state and who applies to the board for a license as a  
19 certified public accountant under the provisions of Section 5087  
20 may, after application for licensure and after providing evidence  
21 of qualifying continuing education, perform the same public  
22 accounting services in this state as a certified public accountant  
23 licensed under Section 5092 or 5093 until the time his or her  
24 application for a license is granted or rejected.

25 (b) An applicant meeting the requirements of subdivision (a)  
26 who certifies that he or she has met the requirements of Section  
27 5095 may perform attest services in this state until the time his or  
28 her application for a license is granted or rejected.

29 (c) This section shall remain operative until January 1, 2006,  
30 and as of that date is repealed.

31 SEC. 10. Section 5088 is added to the Business and  
32 Professions Code, to read:

33 5088. (a) Any individual who is the holder of a current and  
34 valid license as a certified public account issued under the laws of  
35 any state and who applies to the board for a license as a certified  
36 public accountant under the provisions of Section 5087 may, until  
37 the time the application for a license is granted or denied, practice  
38 public accountancy in this state only under a practice privilege  
39 *pursuant to the provisions of Article 5.1 (commencing with Section*  
40 *5096), except that, for purposes of this section, the individual is not*

1 *disqualified from a practice privilege* during the period the  
2 application is pending by virtue of maintaining an office or  
3 principal place of business, or both, in this state. The board may  
4 by regulation provide for exemption, credit, or proration of fees to  
5 avoid duplication of fees.

6 (b) This section shall become operative on January 1, 2006.  
7 SEC. 11. Article 5.1 (commencing with Section 5096) is  
8 added to Chapter 1 of Division 3 of the Business and Professions  
9 Code, to read:

10

11

Article 5.1. Practice Privileges

12

13 5096. (a) An individual whose principal place of business is  
14 not in this state and who has a valid and current license, certificate  
15 or permit to practice public accountancy from another state may,  
16 subject to the conditions and limitations in this article, engage in  
17 the practice of public accountancy in this state under a practice  
18 privilege without obtaining a certificate or license under this  
19 chapter if the individual satisfies one of the following:

20 (1) The individual has continually practiced public  
21 accountancy as a certified public accountant under a valid license  
22 issued by any state for at least four of the last ten years.

23 (2) The individual has a license, certificate, or permit from a  
24 state which has been determined by the board to have education,  
25 examination, and experience qualifications for licensure  
26 substantially equivalent to this state's qualifications under Section  
27 5093.

28 (3) The individual possesses education, examination, and  
29 experience qualifications for licensure which have been  
30 determined by the board to be substantially equivalent to this  
31 state's qualifications under Section 5093.

32 (b) The board may designate states as substantially equivalent  
33 under paragraph (2) of subdivision (a) and may accept individual  
34 qualification evaluations or appraisals conducted by designated  
35 entities, as satisfying the requirements of paragraph (3) of  
36 subdivision (a).

37 (c) To obtain a practice privilege under this section, an  
38 individual who meets the requirements of subdivision (a), shall do  
39 the following:

1 (1) In the manner prescribed by board regulation, notify the  
2 board of the individual's intent to practice.

3 (2) Pay a fee as provided in Article 8 (commencing with  
4 Section 5130).

5 (d) Except as otherwise provided by this article or by board  
6 regulation, the practice privilege commences when the individual  
7 notifies the board, provided the fee is received by the board within  
8 30 days of that date. *The board shall permit the notification to be*  
9 *provided electronically.*

10 (e) An individual who holds a practice privilege under this  
11 article:

12 (1) Is subject to the personal and subject matter jurisdiction and  
13 disciplinary authority of the board and the courts of this state.

14 (2) Shall comply with the provisions of this chapter, board  
15 regulations, and other laws, regulations, and professional  
16 standards applicable to the practice of public accountancy by the  
17 licensees of this state and to any other laws and regulations  
18 applicable to individuals practicing under practice privileges in  
19 this state except the individual is deemed, solely for the purpose  
20 of this article, to have met the continuing education requirements  
21 and ethics examination requirements of this state when such  
22 individual has met the examination and continuing education  
23 requirements of the state in which the individual holds the valid  
24 license, certificate, or permit on which the substantial equivalency  
25 is based.

26 (3) Shall not provide public accountancy services in this state  
27 from any office located in this state, except as an employee of a  
28 firm registered in this state. This paragraph does not apply to  
29 public accountancy services provided to a client at the client's  
30 place of business or residence.

31 (4) Is deemed to have appointed the regulatory agency of the  
32 state that issued the individual's certificate, license, or permit upon  
33 which substantial equivalency is based as the individual's agent on  
34 whom notices, subpoenas or other process may be served in any  
35 action or proceeding by the board against the individual.

36 (5) Shall cooperate with any board investigation or inquiry and  
37 shall timely respond to a board investigation, inquiry, request,  
38 notice, demand or subpoena for information or documents and  
39 timely provide to the board the identified information and  
40 documents.



1 (f) A practice privilege expires one year from the date of the  
2 notice, unless a shorter period is set by board regulation.

3 (g) (1) No individual may practice under a practice privilege  
4 without prior approval of the board if the individual has, or  
5 acquires at any time during the term of the practice privilege, any  
6 disqualifying condition under paragraph (2) of this subdivision.

7 (2) Disqualifying conditions include:

8 (A) Conviction of any crime other than a minor traffic  
9 violation.

10 (B) Revocation, suspension, denial, surrender or other  
11 discipline or sanctions involving—of any license, permit,  
12 registration, certificate or other authority to practice any  
13 profession in this or any other state or foreign country or to practice  
14 before any state, federal, or local court or agency, or the Public  
15 Company Accounting Oversight Board.

16 (C) Pendency of any investigation, inquiry or proceeding by or  
17 before any state, federal or local court or agency, including, but not  
18 limited to, the Public Company Accounting Oversight Board,  
19 involving the professional conduct of the individual.

20 (D) Any judgment or arbitration award against the individual  
21 involving the professional conduct of the individual in the amount  
22 of thirty thousand dollars (\$30,000) or greater.

23 (E) Any other conditions as specified by the board in  
24 regulation.

25 (3) The board may adopt regulations exempting specified  
26 minor occurrences of the conditions listed in subparagraph (B) of  
27 paragraph (2) from being disqualifying conditions under this  
28 subdivision.

29 5096.1. (a) Any individual, not a licensee of this state, who  
30 is engaged in any act which is the practice of public accountancy  
31 in this state, and who has not given notice of intent to practice  
32 under practice privileges and paid the fee required pursuant to the  
33 provisions of this article, and who has a license, certificate or other  
34 authority to engage in the practice of public accountancy in any  
35 other state, regardless of whether active, inactive, suspended, or  
36 subject to renewal on payment of a fee or completion of an  
37 educational or ethics requirement, is:

38 (1) Deemed to be practicing public accountancy unlawfully in  
39 this state.

1 (2) Subject to the personal and subject matter jurisdiction and  
2 disciplinary authority of the board and the courts of this state to the  
3 same extent as a holder of a valid practice privilege.

4 (3) Deemed to have appointed the regulatory agency of the  
5 state that issued the individual's certificate or license as the  
6 individual's agent on whom notice, subpoenas, or other process  
7 may be served in any action or proceeding by the board against the  
8 individual.

9 (b) The board may prospectively deny a practice privilege to  
10 any individual who has violated this section or implementing  
11 regulations or committed any act which would be grounds for  
12 discipline against the holder of a practice privilege.

13 5096.2. (a) Practice privileges may be denied for failure to  
14 qualify under or comply with the provisions of this article or  
15 implementing regulations, or for any act that if committed by an  
16 applicant for licensure would be grounds for denial of a license  
17 under Section 480 or if committed by a licensee would be grounds  
18 for discipline under Section 5100, or for any act committed outside  
19 of this state that would be a violation if committed within this state.

20 (b) The board may deny practice privileges using either of the  
21 following procedures:

22 (1) Notifying the individual in writing of all of the following:

23 (A) That the practice privilege is denied.

24 (B) The reasons for denial.

25 (C) The earliest date on which the individual is eligible for a  
26 practice privilege.

27 (D) That the individual has a right to appeal the notice and  
28 request a hearing under the provisions of the Administrative  
29 Procedure Act if a written notice of appeal and request for hearing  
30 is made within 60 days.

31 (E) That, if the individual does not submit a notice of appeal  
32 and request for hearing within 60 days, the board's action set forth  
33 in the notice shall become final.

34 (2) Filing a statement of issues under the Administrative  
35 Procedure Act.

36 (c) An individual who had been denied a practice privilege may  
37 apply for a new practice privilege not less than one year after the  
38 effective date of the notice or decision denying the practice  
39 privilege unless a longer time period, not to exceed three years, is  
40 specified in the notice or decision denying the practice privilege.

1 5096.3. (a) Practice privileges are subject to revocation,  
2 suspension, fines or other disciplinary sanctions for any conduct  
3 that would be grounds for discipline against a licensee of the board  
4 or for any conduct in violation of this article or regulations  
5 implementing this article.

6 (b) Practice privileges are subject to discipline during any time  
7 period in which they are valid, under administrative suspension,  
8 or expired.

9 (c) The board may recover its costs pursuant to Section 5107  
10 as part of any disciplinary proceeding against the holder of a  
11 practice privilege.

12 (d) An individual whose practice privilege has been revoked  
13 may apply for a new practice privilege not less than one year after  
14 the effective date of the board's decision revoking the individual's  
15 practice privilege unless a longer time period, not to exceed three  
16 years, is specified in the board's decision revoking the practice  
17 privilege.

18 (e) The provisions of the Administrative Procedure Act,  
19 including, but not limited to, the commencement of a disciplinary  
20 proceeding by the filing of an accusation by the board shall apply  
21 under this article.

22 5096.4. (a) The right of an individual to practice in this state  
23 under a practice privilege may be administratively suspended at  
24 any time by an order issued by the board or its executive officer,  
25 without prior notice or hearing, for the purpose of conducting a  
26 disciplinary investigation, proceeding, or inquiry concerning the  
27 representations made in the notice, the individual's competence or  
28 qualifications to practice under practice privileges, failure to  
29 timely respond to a board inquiry or request for information or  
30 documents, or under other conditions and circumstances provided  
31 for by board regulation.

32 (b) The administrative suspension order is immediately  
33 effective when mailed to the individual's address of record or  
34 agent for notice and service as provided for in this article.

35 (c) The administrative suspension order shall contain the  
36 following:

37 (1) The reason for the suspension.

38 (2) A statement that the individual has the right, within 30 days,  
39 to appeal the administrative suspension order and request a  
40 hearing.

1 (3) A statement that any appeal hearing will be conducted  
2 under the provisions of the Administrative Procedure Act  
3 applicable to individuals who are denied licensure, including the  
4 filing of a statement of issues by the board setting forth the reasons  
5 for the administrative suspension of practice privileges and  
6 specifying the statutes and rules with which the individual must  
7 show compliance by producing proof at the hearing and in addition  
8 any particular matters that have come to the attention of the board  
9 and that would authorize the administrative suspension, or the  
10 denial of practice privileges.

11 (d) The burden is on the holder of the suspended practice  
12 privilege to establish both qualification and fitness to practice  
13 under practice privileges.

14 (e) The administrative suspension shall continue in effect until  
15 terminated by an order of the board or the executive officer or  
16 expiration of the practice privilege under administrative  
17 suspension.

18 (f) Administrative suspension is not discipline and shall not  
19 preclude any individual from applying for a license to practice  
20 public accountancy in this state or from applying for a new practice  
21 privilege upon expiration of the one under administrative  
22 suspension, except that the new practice privilege shall not be  
23 effective until approved by the board.

24 (g) Notwithstanding any administrative suspension, a practice  
25 privilege expires one year from the date of notice unless a shorter  
26 period is set by board regulation.

27 (h) Proceedings to appeal an administrative suspension order  
28 may be combined or coordinated with proceedings for denial or  
29 discipline of a practice privilege.

30 5096.5. Notwithstanding any other provision of this article,  
31 an individual may not sign any attest report pursuant to a practice  
32 privilege unless the individual meets the experience requirements  
33 of Section 5095 and completes any continuing education or other  
34 conditions required by the board regulations implementing this  
35 article.

36 5096.6. In addition to the authority otherwise provided for by  
37 this code, the board may delegate to the executive officer the  
38 authority to issue any notice or order provided for in this article and  
39 to act on behalf of the board, including, but not limited to, issuing  
40 a notice of denial of a practice privilege and an interim suspension

1 order, subject to the right of the individual to timely appeal and  
2 request a hearing as provided for in this article.

3 5096.7. Except as otherwise provided in this article, the  
4 following definitions apply:

5 (a) Anywhere the term "license," "licensee," "permit," or  
6 "certificate" is used in this chapter or Division 1.5 (commencing  
7 with Section 475), it shall include persons holding practice  
8 privileges under this article, unless otherwise inconsistent with the  
9 provisions of the article.

10 (b) Any notice of practice privileges under this article and  
11 supporting documents is deemed an application for licensure for  
12 purposes of the provisions of this code, including, but not limited  
13 to, the provisions of this chapter and the provisions of Division 1.5  
14 (commencing with Section 475) related to the denial, suspension  
15 and revocation of licenses.

16 (c) Anywhere the term "employee" is used in this article it  
17 shall include, but is not limited to, partners, shareholders, and  
18 other owners.

19 5096.8. In addition to the authority otherwise provided by this  
20 code, all investigative powers of the board, including those  
21 delegated to the executive officer, shall apply to investigations  
22 concerning compliance with, or actual or potential violations of,  
23 the provisions of this article or implementing regulations,  
24 including, but not limited to, the power to conduct investigations  
25 and hearings by the executive officer under Section 5103 and to  
26 issuance of subpoenas under Section 5108.

27 5096.9. The board is authorized to adopt regulations to  
28 implement, interpret, or make specific the provisions of this  
29 article.

30 5096.10. The provisions of this article shall only be operative  
31 if commencing July 1, 2005, and continuing during the period  
32 provided in Section 5096.11, there is an appropriation from the  
33 Accountancy Fund in the annual Budget Act to fund the activities  
34 in the article and sufficient hiring authority is granted pursuant to  
35 a budget change proposal to the board to provide staffing to  
36 implement this article.

37 5096.11. This article shall become operative on January 1,  
38 2006. It shall remain in effect only until January 1, 2011, and as  
39 of that date is repealed, unless a later enacted statute, which

1 becomes effective on or before January 1, 2011, deletes or extends  
2 that date.

3 SEC. 12. Section 5100 of the Business and Professions Code  
4 is amended to read:

5 5100. After notice and hearing the board may revoke,  
6 suspend, or refuse to renew any permit or certificate granted under  
7 Article 4 (commencing with Section 5070) and Article 5  
8 (commencing with Section 5080), or may censure the holder of  
9 that permit or certificate for unprofessional conduct that includes,  
10 but is not limited to, one or any combination of the following  
11 causes:

12 (a) Conviction of any crime substantially related to the  
13 qualifications, functions and duties of a certified public accountant  
14 or a public accountant.

15 (b) A violation of Section 478, 498, or 499 dealing with false  
16 statements or omissions in the application for a license, in  
17 obtaining a certificate as a certified public accountant, in obtaining  
18 registration under this chapter, or in obtaining a permit to practice  
19 public accountancy under this chapter.

20 (c) Dishonesty, fraud, gross negligence, or repeated negligent  
21 acts committed in the same or different engagements, for the same  
22 or different clients, or any combination of engagements or clients,  
23 each resulting in a violation of applicable professional standards  
24 that indicate a lack of competency in the practice of public  
25 accountancy or in the performance of the bookkeeping operations  
26 described in Section 5052.

27 (d) Cancellation, revocation, or suspension of a certificate or  
28 other authority to practice as a certified public accountant or a  
29 public accountant, refusal to renew the certificate or other  
30 authority to practice as a certified public accountant or a public  
31 accountant, or any other discipline by any other state or foreign  
32 country.

33 (e) Violation of Section 5097.

34 (f) Violation of Section 5120.

35 (g) Willful violation of this chapter or any rule or regulation  
36 promulgated by the board under the authority granted under this  
37 chapter.

38 (h) Suspension or revocation of the right to practice before any  
39 governmental body or agency.

1 (i) Fiscal dishonesty or breach of fiduciary responsibility of  
2 any kind.

3 (j) Knowing preparation, publication, or dissemination of  
4 false, fraudulent, or materially misleading financial statements,  
5 reports, or information.

6 (k) Embezzlement, theft, misappropriation of funds or  
7 property, or obtaining money, property, or other valuable  
8 consideration by fraudulent means or false pretenses.

9 (l) The imposition of any discipline, penalty, or sanction on a  
10 registered public accounting firm or any associated person of such  
11 firm, or both, or on any other holder of a permit, certificate,  
12 license, or other authority to practice in this state, by the Public  
13 Company Accounting Oversight Board or the United States  
14 Securities and Exchange Commission, or their designees under the  
15 Sarbanes-Oxley Act of 2002 or other federal legislation.

16 (m) Unlawfully engaging in the practice of public accountancy  
17 in another state.

18 SEC. 13. Section 5109 of the Business and Professions Code  
19 is amended to read:

20 5109. The expiration, cancellation, forfeiture, or suspension  
21 of a license, practice, privilege, or other authority to practice  
22 public accountancy by operation of law or by order or decision of  
23 the board or a court of law, or the voluntary surrender of a license  
24 by a licensee shall not deprive the board of jurisdiction to  
25 commence or proceed with any investigation of or action or  
26 disciplinary proceeding against the licensee, or to render a  
27 decision suspending or revoking the license.

28 SEC. 14. Article 6.5 (commencing with Section 5116) is  
29 added to Chapter 1 of Division 3 of the Business and Professions  
30 Code, to read:

31  
32 Article 6.5. Administrative Penalties

33  
34 5116. (a) The board, after appropriate notice and an  
35 opportunity for hearing, may order any licensee or applicant for  
36 licensure or examination to pay an administrative penalty as  
37 provided in this article as part of any disciplinary proceeding or  
38 other proceeding provided for in this chapter.

39 (b) The board may assess administrative penalties under one or  
40 more provisions of this article. However, the total administrative

1 penalty to be paid by the licensee shall not exceed the amount of  
2 the highest administrative penalty authorized by this article.

3 (c) The board shall adopt regulations to establish criteria for  
4 assessing administrative penalties based upon factors, including,  
5 but not limited to, actual and potential consumer harm, nature and  
6 severity of the violation, the role of the person in the violation, the  
7 person's ability to pay the administrative penalty, and the level of  
8 administrative penalty necessary to deter future violations of this  
9 chapter.

10 (d) Administrative penalties assessed under this article shall be  
11 in addition to any other penalties or sanctions imposed on the  
12 licensee or other person, including, but not limited to, license  
13 revocation, license suspension, denial of the application for  
14 licensure, denial of the petition for reinstatement, or denial of  
15 admission to the licensing examination. Payment of these  
16 administrative penalties may be included as a condition of  
17 probation when probation is ordered.

18 (e) All administrative penalties collected under this article shall  
19 be deposited in the Accountancy Fund.

20 5116.1. In accordance with Section 5116 and applicable  
21 regulations, except as provided in Section 5116.2, any licensee  
22 who violates any provision of this chapter may be assessed an  
23 administrative penalty of not more than five thousand dollars  
24 (\$5,000) for the first violation and not more than ten thousand  
25 dollars (\$10,000) for each subsequent violation.

26 5116.2. In accordance with Section 5116 and applicable  
27 regulations, any licensee who violates subdivision (a), (c), (i), (j)  
28 or (k) of Section 5100 may be assessed an administrative penalty  
29 of not more than one million dollars (\$1,000,000) for the first  
30 violation and not more than five million dollars (\$5,000,000) for  
31 any subsequent violation, except that a licensee who is a natural  
32 person may be assessed an administrative penalty of not more than  
33 fifty thousand dollars (\$50,000) for the first violation and not more  
34 than one hundred thousand dollars (\$100,000) for any subsequent  
35 violation.

36 5116.3. In accordance with Section 5116 and applicable  
37 regulations, any person who is found to have cheated or subverted  
38 or attempted to subvert or cheat on any licensing examination or  
39 who conspired with or aided or abetted any other person to cheat,  
40 subvert or attempt to subvert any examination may be assessed an

1 administrative penalty of not more than five thousand dollars  
2 (\$5,000) for the first violation and not more than ten thousand  
3 dollars (\$10,000) for each subsequent violation.

4 5116.4. (a) The board's executive officers may request  
5 assessment of an administrative penalty in any disciplinary or  
6 other proceeding provided in this chapter or in any notice to an  
7 applicant pursuant to Section 5112.

8 (b) The administrative penalty pursuant to subdivision (a) shall  
9 become final unless contested within the time period provided for  
10 the filing of a notice of appeal, for the filing of a notice of defense,  
11 or for requesting a hearing in the proceeding.

12 (c) Nothing in this article shall prevent an administrative  
13 penalty from being included in a final contested or default decision  
14 of the board or in a notice issued pursuant to Section 5112 once the  
15 time period for requesting a hearing has expired.

16 5116.5. The board may obtain a judgment in any court of  
17 competent jurisdiction ordering the payment of any final  
18 administrative penalty assessed by the board pursuant to this  
19 article upon the filing of a certified copy of the board's final  
20 decision or notice issued pursuant to Section 5112.

21 5116.6. Anywhere the term "licensee" is used in the article  
22 it shall include certified public accountants, public accountants,  
23 partnerships, corporations, holders of practice privileges, other  
24 persons licensed, registered, or otherwise authorized to practice  
25 public accountancy under this chapter, and persons who are in  
26 violation of any provision of Article 5.1 (commencing with  
27 Section 5096).

28 SEC. 15. Section 5134 of the Business and Professions Code  
29 is amended to read:

30 5134. The amount of fees prescribed by this chapter is as  
31 follows:

32 (a) The fee to be charged to each applicant for the certified  
33 public accountant examination shall be fixed by the board at an  
34 amount to equal the actual cost to the board of the purchase or  
35 development of the examination, plus the estimated cost to the  
36 board of administering the examination and shall not exceed six  
37 hundred dollars (\$600). The board may charge a reexamination fee  
38 equal to the actual cost to the board of the purchase or development  
39 of the examination or any of its component parts, plus the  
40 estimated cost to the board of administering the examination and

1 not to exceed seventy-five dollars (\$75) for each part that is subject  
2 to reexamination.

3 (b) The fee to be charged to out-of-state candidates for the  
4 certified public accountant examination shall be fixed by the board  
5 at an amount equal to the estimated cost to the board of  
6 administering the examination and shall not exceed six hundred  
7 dollars (\$600) per candidate.

8 (c) The application fee to be charged to each applicant for  
9 issuance of a certified public accountant certificate shall be fixed  
10 by the board at an amount equal to the estimated administrative  
11 cost to the board of processing and issuing the certificate and shall  
12 not exceed two hundred fifty dollars (\$250).

13 (d) The application fee to be charged to each applicant for  
14 issuance of a certified public accountant certificate by waiver of  
15 examination shall be fixed by the board at an amount equal to the  
16 estimated administrative cost to the board of processing and  
17 issuing the certificate and shall not exceed two hundred fifty  
18 dollars (\$250).

19 (e) The fee to be charged to each applicant for registration as  
20 a partnership or professional corporation shall be fixed by the  
21 board at an amount equal to the estimated administrative cost to the  
22 board of processing and issuing the registration and shall not  
23 exceed two hundred fifty dollars (\$250).

24 (f) The board shall fix the biennial renewal fee so that, together  
25 with the estimated amount from revenue other than that generated  
26 by subdivisions (a) to (e), inclusive, the reserve balance in the  
27 board's contingent fund shall be equal to approximately nine  
28 months of annual authorized expenditures. Any increase in the  
29 renewal fee made after July 1, 1990, shall be effective upon a  
30 determination by the board, by regulation adopted pursuant to  
31 subdivision (k), that additional moneys are required to fund  
32 authorized expenditures other than those specified in subdivisions  
33 (a) to (e), inclusive, and maintain the board's contingent fund  
34 reserve balance equal to nine months of estimated annual  
35 authorized expenditures in the fiscal year in which the  
36 expenditures will occur. The biennial fee for the renewal of each  
37 of the permits to engage in the practice of public accountancy  
38 specified in Section 5070 shall not exceed two hundred fifty  
39 dollars (\$250).

1 (g) The delinquency fee shall be 50 percent of the accrued  
2 renewal fee.

3 (h) The initial permit fee is an amount equal to the renewal fee  
4 in effect on the last regular renewal date before the date on which  
5 the permit is issued, except that, if the permit is issued one year or  
6 less before it will expire, then the initial permit fee is an amount  
7 equal to 50 percent of the renewal fee in effect on the last regular  
8 renewal date before the date on which the permit is issued. The  
9 board may, by regulation, provide for the waiver or refund of the  
10 initial permit fee where the permit is issued less than 45 days  
11 before the date on which it will expire.

12 (i) On and after January 1, 2006, the annual fee to be charged  
13 an individual for a practice privilege pursuant to Section 5096 shall  
14 be fixed by the board at an amount not to exceed 50 percent of the  
15 biennial renewal fee provided in subdivision (f).

16 (j) The fee to be charged for the certification of documents  
17 evidencing passage of the certified public accountant  
18 examination, the certification of documents evidencing the grades  
19 received on the certified public accountant examination, or the  
20 certification of documents evidencing licensure shall be  
21 twenty-five dollars (\$25).

22 (k) The actual and estimated costs referred to in this section  
23 shall be calculated every two years using a survey of all costs  
24 attributable to the applicable subdivision.

25 (l) Upon the effective date of this section the board shall fix the  
26 fees in accordance with the limits of this section and, on and after  
27 July 1, 1990, any increase in any fee fixed by the board shall be  
28 pursuant to regulation duly adopted by the board in accordance  
29 with the limits of this section.

30 (m) Fees collected pursuant to subdivisions (a) to (e), inclusive,  
31 shall be fixed by the board in amounts necessary to recover the  
32 actual costs of providing the service for which the fee is assessed,  
33 as projected for the fiscal year commencing on the date the fees  
34 become effective.

35 SEC. 16. Section 22252.1 is added to the Business and  
36 Professions Code, to read:

37 22252.1. (a) No confidential information obtained by a tax  
38 preparer, in his or her professional capacity, concerning a client or  
39 a prospective client shall be disclosed by the licensee *tax preparer*

1 without the written permission of the client or prospective client,  
2 except for the following:

3 (1) Disclosures made by a tax preparer in compliance with a  
4 subpoena or a summons enforceable by order of a court.

5 (2) Disclosures made by a tax preparer regarding a client or  
6 prospective client to the extent the tax preparer reasonably  
7 believes it is necessary to maintain or defend himself or herself in  
8 a legal proceeding initiated by the client or prospective client.

9 (3) Disclosures made by a tax preparer in response to an official  
10 inquiry from a federal or state government regulatory agency.

11 (4) Disclosures made by a tax preparer or to a tax preparer's  
12 duly authorized representative to another tax preparer in  
13 connection with a proposed sale or merger of the tax preparer's  
14 professional practice.

15 (5) Disclosures made by a tax preparer to either of the  
16 following:

17 (A) Another tax preparer to the extent necessary for purposes  
18 of professional consultation.

19 (B) Organizations that provide professional standards review  
20 and ethics or quality control peer review.

21 (6) Disclosures made when specifically required by law.

22 (b) In the event that confidential client information may be  
23 disclosed to persons or entities outside the United States of  
24 America in connection with the services provided, the tax preparer  
25 shall inform the client *in writing* and obtain the client's written  
26 permission for the disclosure.

27 SEC. 17. Section 22253.2 of the Business and Professions  
28 Code is amended to read:

29 22253.2. (a) The Franchise Tax Board shall notify the  
30 California Tax Education Council when it identifies an individual  
31 who has violated paragraph (1) of subdivision (a) of Section  
32 22253.

33 (b) The Franchise Tax Board may do any of the following:

34 (1) Cite individuals preparing tax returns in violation of  
35 subdivision (a) of Section 22253.

36 (2) Levy a fine up to ~~one~~ five thousand dollars ~~(\$1,000)~~  
37 ~~(\$5,000)~~ per violation.

38 (3) Issue a cease and desist order, which shall remain in effect  
39 until the individual has come into compliance with the provisions  
40 of paragraph (1) of subdivision (a) of Section 22253.

1 (c) The California Tax Education Council may enter into an  
2 agreement with the Franchise Tax Board to provide  
3 reimbursement to the Franchise Tax Board for any expenses  
4 incurred by the Franchise Tax Board to implement this section.  
5 SEC. 18. No reimbursement is required by this act pursuant  
6 to Section 6 of Article XIII B of the California Constitution  
7 because the only costs that may be incurred by a local agency or  
8 school district will be incurred because this act creates a new crime  
9 or infraction, eliminates a crime or infraction, or changes the  
10 penalty for a crime or infraction, within the meaning of Section  
11 17556 of the Government Code, or changes the definition of a  
12 crime within the meaning of Section 6 of Article XIII B of the  
13 California Constitution.

*[Faint, illegible text, likely bleed-through from the reverse side of the page]*

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## Project Plan – Practice Privilege (PP)

Meetings	Meeting Date
<p><b>July PPTF Meeting</b></p> <p>Agenda to Renata for review            6/24/04            1<sup>st</sup> Mailout for July TF/Board Meeting    6/29/04            2<sup>nd</sup> Mailout for July TF/Board Meeting    7/6/04</p> <ul style="list-style-type: none"> <li>▪ Approval of May 13, 2004, Meeting minutes</li> <li>▪ Project Outline</li> <li>▪ List of Policy Issues</li> <li>▪ Discussion of "Safe Harbor"</li> <li>▪ Consideration of whether the Board should accept NASBA's designation of states as equivalent or develop its own list.</li> <li>▪ Consideration of whether the Board should accept NASBA's determination of an individual's substantial equivalency or use some other method for assessing the qualification of CPAs from non-substantially equivalent states.</li> <li>▪ Notification payment issues</li> <li>▪ Scheduling of October TF Meeting</li> </ul>	<p>7/15/04</p>
<p><b>September PPTF Meeting</b></p> <p>Agenda to Renata for review            8/17/04            1<sup>st</sup> Mailout for September TF/Board Meetings    8/24/04            2<sup>nd</sup> Mailout for September TF/Board Meeting    8/31/04</p> <ul style="list-style-type: none"> <li>▪ Approval of July 15, 2004, Meeting minutes</li> <li>▪ At what point does a licensee need to apply for licensure instead of requesting practice privilege?</li> <li>▪ Evaluation of "Disqualifying Conditions" and related enforcement issues</li> <li>▪ Completion of A&amp;A CE by out-of-state licensees</li> <li>▪ Performance of audit of submitted notifications</li> </ul>	<p>9/9/04</p>

Practice Privilege TF Agenda Item II.B.  
July 15, 2004

Board Agenda Item VIII.F.3.b.  
July 16, 2004

### Meetings (cont.)

### Scheduled Date

<b>October PPTF Meeting at Board office</b> Agenda to Renata for review            09/04 Mailout for October TF Meeting        09/04	10/04
<b>November PPTF Meeting</b> Agenda to Renata for review            10/28/04 1 <sup>st</sup> Mailout for November TF/Board Meetings    11/2/04 2 <sup>nd</sup> Mailout for November TF/Board Meeting    11/9/04 <ul style="list-style-type: none"> <li>▪ Approval of Meeting minutes</li> <li>▪ Edit drafted regulations</li> </ul>	11/18/04
<b>January PPTF Meeting</b> Agenda to Renata for review            12/29/04 1 <sup>st</sup> Mailout for January TF/Board Meetings    1/4/05 2 <sup>nd</sup> Mailout for January TF/Board Meeting    1/11/05 <ul style="list-style-type: none"> <li>▪ Final regs approved</li> </ul>	1/20/05

### Regulations

### Completion Dates

Begin drafting regulations	10/15/04
Regulations to Task Force for editing	11/18/04
Final regulations approved by TF	1/20/05
Final regulations approved by Board	1/21/05
Regulation notice in Update	4/1/05
Regulation Hearing	5/20/05
Regulations to DCA	6/17/05
Regulations to OAL	8/19/05
Regulations filed with Secretary of State	10/14/05

## Practice Privilege

### Issues/Regulatory Development

Issue	Proposed Meeting Date
Should the Board accept NASBA's determination of an individual's substantial equivalency or use some other method of assessing the qualifications of CPAs from non-substantially equivalent states?	July '04 Meeting
Should the Board adopt NASBA's designation of states as substantially equivalent (subject to Board review) or develop its own list?	July '04 Meeting
Should there be a "safe harbor" period for providing notification to the Board?	July '04 Meeting
If the individual does not pay the fee or the check is dishonored: 1. Should there be a limit to the number of subsequent notifications? 2. May a notification be withdrawn prior to the expiration of the 30-day payment period?	July '04 Meeting
How should we evaluate whether any of the "disqualifying conditions" means the practice privilege should be denied?	September '04 Meeting
What, if any, additional disqualifying conditions should be specified by regulation?	September '04 Meeting
What, if any, minor infractions should be exempted from being considered a disqualifying condition?	September '04 Meeting
What should be the criteria for administrative suspension?	September '04 Meeting
At what point does a licensee need to apply for licensure instead of requesting a practice privilege?	September '04 Meeting
What, if any, additional requirements should there be for signers of attest reports?	September '04 Meeting
What practice privilege information should be available on the Web: 1. While awaiting payment? 2. Administrative Suspension? 3. Discipline?	October '04 Meeting

Practice Privilege TF Agenda Item II.B.  
July 15, 2004

Board Agenda Item VIII.F.3.b.  
July 16, 2004

Issue	Proposed Meeting Date
How often should staff complete a random audit of received notifications and what content should be requested?	October '04 Meeting
Remaining Unresolved Issues.	October '04 Meeting
Discussion of draft regulations.	November '04 Meeting
Final approval of regulations.	January '05 Meeting
Regulation Hearing.	May '05 Meeting

\*\* It is anticipated that the regulations will be approved by the Office of Administrative Law and filed with the Secretary of State by October 15, 2005, to become effective by November 15, 2005.

## Memorandum

Practice Privilege TF Agenda Item III  
July 15, 2004

Board Agenda Item VIII.F.4  
July 16, 2004

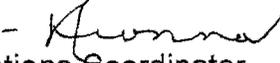
To : Practice Privilege Task Force Members  
Board Members

Date : July 5, 2004

Telephone : (916) 263-3788

Facsimile : (916) 263-3674

E-mail : agranick@cba.ca.gov

From : Aronna Granick -   
Legislation/Regulations Coordinator

Subject : Notification Form for Practice Privileges – Consideration of How it  
Should be Handled in Regulations

Attached is a draft notification form for individual practice privileges. It was provided to the UAA Task Force at its meeting of May 13, 2004, for illustrative purposes only. It is being provided again for illustrative purposes during your discussion of this agenda item. The question for consideration at this time is whether the form itself should be adopted as part of the regulations or whether, as an alternative, the content of the form should be delineated in the text of the regulations. The contents of the form are likely to need revision after legislation is enacted and the Task Force completes its consideration of the relevant policy issues.

Attachment



CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3675
WEB ADDRESS: http://www.dca.ca.gov/cba



DRAFT

NOTIFICATION AND AGREEMENT TO CONDITIONS FOR THE PRIVILEGE TO PRACTICE PUBLIC ACCOUNTING IN CALIFORNIA PURSUANT TO CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION XXXX:

Name: \_\_\_\_\_

Prior Names: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address Of Principal Place Of Business: \_\_\_\_\_

Telephone Number (business hours): \_\_\_\_\_

Fax Number (business hours): \_\_\_\_\_

E-Mail: \_\_\_\_\_
(To facilitate contact in the event of a problem processing your application)

Date Of Birth: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

In connection with this privilege to practice, I wish to be able to sign a report on an attest engagement. [ ] Yes [ ] No

QUALIFICATION REQUIREMENTS: I qualify for a privilege to practice public accounting in California because:

- 1. I am an individual.
2. My principal place of business is not in California and I do not have an office in California other than through a firm that is registered in California and of which I am an employee.
3. I have a valid license to practice public accounting in the state/jurisdiction of my principal place of business.

State/Jurisdiction: \_\_\_\_\_ License Number: \_\_\_\_\_ Date Issued: \_\_\_\_\_

- 4. a. The state/jurisdiction identified in item 3 above is deemed substantially equivalent by the California Board of Accountancy (see Appendix 1 for list of substantially equivalent states); OR

b. My individual qualifications have been determined by NASBA to be substantially equivalent (NASBA file no. \_\_\_\_\_); OR  
c. I have continually practiced public accountancy as a certified public accountant under a valid license issued by any state for 4 of the last 10 years.

5. I understand that I may sign a report on an attest engagement under this privilege to practice only if I meet California's requirements to sign attest reports.

6. I agree to abide by the laws of the State of California, including the California Accountancy Act (Business and Professions Code, Section 5000 et seq., accessible at [http://www.dca.ca.gov/cba/acnt\\_act.htm](http://www.dca.ca.gov/cba/acnt_act.htm)) and the regulations thereunder (accessible at <http://www.dca.ca.gov/cba/regs.htm>).

7. I consent to the personal and subject matter jurisdiction of the California Board of the Accountancy (CBA) including, but not limited to, the following:  
a. To suspend or revoke, without prior notice or hearing and in the sole discretion of the CBA or its representatives, the privilege to practice public accounting;  
b. To impose discipline for any violation of the California Accountancy Act or regulations thereunder and recover costs for investigation and prosecution; and  
c. To provide information relating to a practice privilege and/or refer any additional and further discipline to the board of accountancy of any other state and/or the SEC, PCAOB or other relevant regulatory authorities.

8. I agree to respond fully and completely to all inquiries by the CBA relating to my California practice privilege.

9. I consent to the authority of the CBA to verify the accuracy and truthfulness of the information provided in this notification. I consent to the release of all information relevant to the CBA's inquiries now or in the future by:  
a. Contacting other states;  
b. Contacting the SEC, PCAOB or any other federal agency before which I am authorized to practice; and  
c. Contacting NASBA.

10. I am submitting this form to the CBA at or before the time work begins under this practice privilege.

11. In the event that any of the information in this notice changes, I will provide the CBA written notice of any such change within 30 days of its occurrence.

12. I am concurrently submitting the fee of \$100.00.

**ADDITIONAL INFORMATION:**

In addition to the state of my principal place of business, I am also authorized to practice in the following states or jurisdictions.

State/Jurisdiction: _____	License Number: _____	Other Authority: _____
State/Jurisdiction: _____	License Number: _____	Other Authority: _____



**CALIFORNIA BOARD OF ACCOUNTANCY**

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WEB ADDRESS: <http://www.dca.ca.gov/cba>



**ATTACHMENT X**

- 1. If you checked items 1, 2, or 3 under additional information, please provide explanatory details:

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- 2. If you checked item 4 under additional information, please provide:

Date of Judgment/ Arbitration Award: \_\_\_\_\_ Jurisdiction /Court: \_\_\_\_\_ Docket No: \_\_\_\_\_



Please check any of the items below that apply. For any checked items in (1)-(4), you must provide additional information as requested in Attachment X and you are not authorized to practice in California unless and until you receive notice from the California Board of Accountancy that the privilege has been granted.

- 1. I have been convicted of a crime other than a minor traffic violation.
- 2. I have had a license, registration, permit or authority to practice surrendered, denied, suspended, revoked, put on probationary status or otherwise limited.
- 3. I am currently the subject of an investigation, inquiry or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving my professional conduct.
- 4. I have had a judgment or arbitration award in an amount greater than \$30,000 entered against me in a civil action alleging actionable conduct in the practice of public accountancy.

I, \_\_\_\_\_, understand that any misrepresentation or omission in connection with this notification is cause for termination of any practice privilege in California and that the California Board of Accountancy will act accordingly, including the notification of other state or federal authorities. I understand that this privilege to practice public accounting expires one year from the date of this notice. I certify under penalty of perjury under the laws of the state of California that the foregoing information is true and correct.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*Your privilege to practice commences with the filing of your completed notification, including payment of your fee. If you do not submit your payment within 30 days of this notification, you do not hold a valid practice privilege.*

Privacy Statement:  
The information provided in this form will be used by the California Board of Accountancy to determine whether you qualify for practice privileges in California. Sections 5080 through 5095 of the Business and Professions Code authorize the collection of this information. Failure to provide any of the required information is grounds for rejection of the notification as being incomplete. Information provided may be transferred to the Department of Justice, a District Attorney, a City Attorney, or to another governmental agency as may be necessary to permit the Board, or the transferee agency, to perform its statutory or constitutional duties, or otherwise transferred or disclosed as provided in Civil Code Section 1798.24. Each individual has the right to review his or her file, except as otherwise provided by the Information Practices Act. The Executive Officer of the California Board of Accountancy is responsible for maintaining the information in this application, and may be contacted via written correspondence at 2000 Evergreen Street, Suite 250, Sacramento, CA 95815, or by calling (916) 263-3680, regarding questions about this notice or access to records.

## Memorandum

Practice Privilege TF Agenda Item IV  
July 15, 2004

Board Agenda Item VIII.F.5  
July 16, 2004

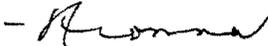
To : Practice Privilege Task Force Members  
Board Members

Date : July 5, 2004

Telephone : (916) 263-3788

Facsimile : (916) 263-3674

E-mail : agranick@cba.ca.gov

From : Aronna Granick -   
Legislation/Regulations Coordinator

Subject : Background Information Related to Consideration of a "Safe Harbor" Period

Attached as background for your consideration of this agenda item are excerpts from minutes from the UAA Task Force's meetings of December 17, 2003 (Attachment 1), January 2004 (Attachment 2), and May 13, 2004 (Attachment 3) during which the Task Force discussed the issue of whether there should be a "safe harbor" period or grace period for providing notification to the Board.

Attachment

**CALIFORNIA BOARD OF ACCOUNTANCY**

2000 EVERGREEN STREET, SUITE 250  
SACRAMENTO, CA 95815-3832  
TELEPHONE: (916) 263-3680  
FACSIMILE: (916) 263-3675  
WEB ADDRESS: <http://www.dca.ca.gov/cba>

**Attachment 1****UAA TASK FORCE****MINUTES OF THE MEETING**

December 17, 2003  
California Board of Accountancy Office  
2000 Evergreen Street  
Sacramento, CA 95815

**CALL TO ORDER**

Renata Sos, Chair, called the meeting of the UAA (Uniform Accountancy Act) Task Force to Order at 10:35 a.m. and welcomed the participants.

**Present:**

Renata Sos, Chair  
Gail Hillebrand  
Thomas Iino  
Harold Schultz  
David Walton

**Staff and Legal Counsel**

Mary Crocker, Assistant Executive Officer  
Patti Franz, Licensing Manager  
Michael Granen, Deputy Attorney General  
Aronna Granick, Legislation/Regulations Coordinator  
Bob Miller, Legal Counsel  
Greg Newington, Chief, Enforcement Program  
Carol Sigmann, Executive Officer

**Other Participants**

Mike Duffey, Ernst and Young LLP  
Julie D'Angelo Fellmeth, Center for Public Interest Law  
Wendy Perez, Board Member  
Richard Robinson, Robinson & Associates  
Jeannie Tindel, California Society of Certified Public Accountants

**I. Adoption of Task Force Objectives.**

Before discussing the Task Force objectives, Ms. Sos provided a general context for the discussion. She noted that the purpose of the Task Force was to consider cross-border

During the discussion participants briefly considered when a California license would be needed. Mr. Newington noted that if a firm opened an office in California, it would need a California license. Mr. Granen concurred and added that since substantial equivalency only applies to individuals, a sole practitioner opening an office in California would need to get a California license. Ms. Sos added that it is important that the requirements for substantial equivalency not conflict with the requirements for licensing firms.

Participants noted that the UAA requires a license when the CPA's principal place of business is in this state. Ms. Sos indicated that "principal place of business" is undefined in California law. Ms. Hillebrand suggested it could possibly be defined by the percentage of the licensee's time spent in that state, for example 15 percent. It was the consensus of the Task Force that a definition of "principal place of business" needed further consideration.

### III. Discussion of Issues Related to Substantial Equivalency (Renata Sos)

- A. What would be conferred?
- B. Who would be eligible?
- C. Should anything additional be required for applicants signing reports on attest engagements?
- D. When would notification be required and what should it include?
- E. When would the authority to practice begin and when would it end?
- F. Should renewal be permitted and what should the requirements be?

Ms. Sos indicated that she had prepared a draft notification form for discussion purposes (Attachment 3). She noted that the first part focuses on Qualification Standards. It references practice privileges rather than a license and permits the Board to suspend practice privileges prior to a hearing. Ms. Sos added that the second part of the form requests "Other Information." Responses to that section could not be grounds for denial of practice privileges. Also, when the form is on-line, it could be linked with an explanation reducing the number of inquiries the Board would receive.

Ms. Hillebrand expressed concern regarding Item 8 of the Qualification Standards which provides for a 30-day grace period. She indicated that she would prefer that the licensee submit the notification before or contemporaneous with starting practice. Payment of the fees could come later. Mr. Granen indicated he would also like a signed application later for enforcement purposes. Mr. Duffey indicated that this approach would not be a problem for larger firms as long as the form could be submitted very quickly on-line. **After discussion, it was moved by Ms. Hillebrand, seconded by Mr. Iino, and carried that the notification would have to be sent for submission to the Board on or before the work begins.**

Ms. D'Angelo Fellmeth inquired if, under item 4 of the Qualification Standards, a CPA from a substantially equivalency state could be granted practice privileges even if that CPA, as an individual, does not meet the UAA's standards for substantial equivalency.

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Attachment 2



UAA TASK FORCE  
MINUTES OF THE MEETING

January 26, 2004  
California Board of Accountancy Office  
2000 Evergreen Street  
Sacramento, CA 95815

## CALL TO ORDER

Renata Sos, Chair, called the meeting of the UAA (Uniform Accountancy Act) Task Force to Order at 10:35 a.m. and welcomed the participants.

Present:

Renata Sos, Chair  
Gail Hillebrand  
Thomas Iino  
Harold Schultz  
David Walton

Staff and Legal Counsel

Mary Crocker, Assistant Executive Officer  
Patti Franz, Licensing Manager  
Michael Granen, Deputy Attorney General  
Aronna Granick, Legislation/Regulations Coordinator  
Bob Miller, Legal Counsel  
Greg Newington, Chief, Enforcement Program  
Carol Sigmann, Executive Officer

Other Participants

Mike Duffey, Ernst and Young LLP  
Katherine Demos, Department of Consumer Affairs  
Bill Gage, Senate Business and Professions Committee  
Ann Nelson, California Society of Accounting and Tax Professionals  
Wendy Perez, Board Member  
Richard Robinson, Robinson & Associates  
Ian Thomas, Board President  
Jeannie Tindel, California Society of Certified Public Accountants

KATHY JOYCE K. CALIFORNIA  
PUBLIC TRUST  
THE BOARD HAD ADOPTED A POLICY UNDER WHICH FIRMS COULD NOT BE DISCIPLINED EXCEPT FOR SPECIFIC GENERAL MANAGEMENT FAILURES. THE BOARD WOULD NEED TO REVISE THIS POLICY IF THIS PROPOSAL WERE ADOPTED. THE TASK FORCE ALSO DISCUSSED THE NEED FOR STATUTORY PROVISIONS THAT WOULD GIVE THE BOARD JURISDICTION OVER BOTH THE FIRM AND THE INDIVIDUAL PRACTICING UNDER THE NOTIFICATION.

Participants also discussed how the fees could be established. Ms. Tindel and Mr. Duffey volunteered to develop a proposal. Ms. Hillebrand noted that Board staff would also need to be involved. Ms. Crocker indicated that the statute could establish a ceiling, and the actual fee could be established by a regulation based on data collected by the Board.

**After discussion, it was the consensus of the Task Force that it would be desirable to further consider and develop the blanket notification proposal.** Ms. Sos and Ms. Hillebrand volunteered to be a sub-task force to work on this project. Mr. Granen would serve as legal counsel, and Mr. Duffey and Ms. Tindel would also participate.

The Task Force then considered the draft individual notification form that had been revised by Ms. Sos (Attachment 2). Ms. Sos indicated that her intent was to make the form simple in order to encourage people to submit it. Other Task Force members concurred with Ms. Sos regarding the desirability of keeping the form simple. Participants suggested minor revisions to improve the readability of the form including deleting items 3 and 14 in the section "Qualification Requirements."

During the discussion, Ms. Granick reported on staff research regarding NASBA's method of determining substantial equivalency for individuals (see Attachments 3 and 4). She noted that NASBA's application review process appeared to be quite thorough. She added that it does not require that the licensee have 150 hours of education at the time of licensure as long as the requirement is met for the substantial equivalency evaluation. She noted that this approach would make it easier for California's "Pathway 1" licensees to be deemed substantially equivalent. Ms. Sos observed that even though NASBA's procedure has been in place since May 1999, NASBA had received only 160 applications for an individual substantial equivalency evaluation. Of the 160 licensees who had applied, 152 had been determined to be substantially equivalent.

Also during the discussion, Ms. Sos commented that at the last meeting the Task Force had voted to require that notification would have to be submitted to the Board on or before the time the work begins. However, at the NASBA Pacific Regional Communications Forum other states indicated that they were considering a grace period. Ms. Tindel indicated she believed that a 30-day grace period was appropriate. Ms. Hillebrand noted that the Task Force had extensively discussed the matter at its previous meeting. After discussion, it was moved by Ms. Sos and seconded by Mr. Schultz to reconsider the Task Force's decision. The motion did not carry.

**CALIFORNIA BOARD OF ACCOUNTANCY**

2000 EVERGREEN STREET, SUITE 250  
 SACRAMENTO, CA 95815-3832  
 TELEPHONE: (916) 263-3680  
 FACSIMILE: (916) 263-3675  
 WEB ADDRESS: <http://www.dca.ca.gov/cba>

**Attachment 3**

Practice Privilege TF Agenda Item I  
 July 15, 2004

Board Agenda Item VIII.F.1  
 July 16, 2004

**DRAFT**

**UAA TASK FORCE  
 MINUTES OF THE MEETING  
 UAA TASK FORCE  
 May 13, 2004  
 The Sheraton Pasadena Hotel  
 303 E. Cordova Street, Pasadena, CA 91101**

**CALL TO ORDER**

Renata Sos, Chair, called the meeting of the UAA (Uniform Accountancy Act) Task Force to order at 1:40 p.m. and welcomed the participants. Ms. Sos indicated that to ensure compliance with the Bagley-Keene Open Meeting Act, when a quorum of the Board is present at this meeting (eight members of the Board), Board members who are not serving on the Task Force must attend as observers only.

Present:

Renata Sos, Chair  
 Ian Thomas  
 Gail Hillebrand  
 Thomas Iino  
 Harold Schultz  
 David Walton

Staff and Legal Counsel

Mary Crocker, Assistant Executive Officer  
 Patti Franz, Licensing Manager  
 Michael Granen, Deputy Attorney General  
 Aronna Granick, Legislation/Regulations Coordinator  
 Bob Miller, Legal Counsel  
 Greg Newington, Chief, Enforcement Program  
 Carol Sigmann, Executive Officer

Other Participants

Tom Chenoweth  
 Nancy Corrigan, Chair, Qualifications Committee  
 Julie D'Angelo Fellmeth, Center for Public Interest Law  
 Michael Duffey, Ernst and Young LLP  
 Del Exeter, Society of California Accountants

notification is implemented and the Board has some real world experience to use in making a determination whether firm notification is necessary.

Mr. Iino expressed support for Ms. Sos' recommendation and inquired if plans had been made for data collection. Ms. Crocker indicated that if there are specific questions to be addressed, they could be incorporated into the notice. Ms. Hillebrand suggested that firms could also assist in the data collection process.

**After discussion, it was moved by Mr. Thomas, seconded by Ms. Hillebrand, and unanimously carried to approve Ms. Sos' recommendation to cease further work on the firm notification proposal.**

### III. Proposed Statutory Language to Implement Substantial Equivalency in California.

#### A. Statutory Language Revised at April 9, 2004, Meeting.

Ms. Sos described the materials provided under Agenda Item III (Attachment 2). She noted that the cover memo gives an overview of the principal building blocks that comprise the practice privileges statutes. Attached to the cover memo are the draft statutes and a draft notification form which is provided for illustrative purposes only. She added that the Task Force's objective at this meeting was to come to an agreement regarding the draft statutes and make a recommendation to the Board.

Ms. Sos then asked Ms. Sigmann to provide an update on the time line for getting the Board's proposal included in legislation. Ms. Sigmann indicated that the Task Force's recommendations will be acted on by the Board at its May 14, 2004, meeting. Then the practice privileges proposal and other sunset review recommendations will be considered at a hearing before the Joint Legislative Sunset Review Committee (JLSRC) on June 1, 2004. Ms. Sigmann noted that Mr. Thomas and Ms. Sos planned to testify at the hearing. Following that hearing, it is anticipated that the JLSRC will meet again the following week to vote on the proposal. Statutory language to implement the JLSRC's recommendations will be amended into legislation around June 15, 2004, and will be considered by the Assembly Business and Professions Committee on June 22, 2004.

Before the Task Force began discussing the draft statutes, Ms. Sos reported that earlier that day she, Ms. D'Angelo Fellmeth, and Mr. Robinson had been discussing the notification process and the issue of at what point in time must notification occur vis a vis when the licensee actually starts practicing in California. Ms. Sos noted that the Task Force previously had considered the timing of notification and how it might operate for large firms, and the Task Force had decided to require immediate notification. She added that, now that firm notification is not going forward, it may be useful to consider whether there should be a grace period in particular when the licensees are partners or employees of registered firms.

Mr. Robinson expressed support for the concept of a "grace period" or "safe harbor period." He commented that the intent would be for everyone to provide notification when entering the state. However, his clients, the "Big Four" accounting firms, are concerned that, because of the size of their firms, more time might be needed to make sure the employee or partner giving notice does so properly. Therefore they would like a thirty-day safe harbor period. He expressed support for a proposal suggested by Mr. Granen which would provide such a safe harbor period for partners and employees of registered firms. He noted that the Board already has a "regulatory hammer" as it regulates the firm. He added that, under this proposal, the representations would be made under penalty of perjury and would be effective when the out-of-state licensee commences practice in California, even though the notice could be given later. He further noted that the safe harbor proposal could create an incentive to comply by allowing individuals who failed to give notice before they began practicing to do so afterwards.

Mr. Duffey agreed and noted that when an individual becomes aware of noncompliance, he or she can submit the notice which would be retroactive to the time when practice in California began. He suggested that this would encourage compliance and be consistent with the language in the UAA.

Ms. Hillebrand expressed concern that this was a new idea, and indicated that she was not prepared to make a decision at this time. She noted that it was anticipated that filing the notification itself would be very simple, and could be done very quickly on-line. Further, a grace period for paying the fee had already been approved by the Task Force. She expressed concern that if the Board permits the notice to be filed after practice begins, it would be difficult to disqualify those individuals whose notifications are subject to further review.

Ms. Sos indicated that the issue of a safe harbor period will need to be considered when drafting regulations. However, the Task Force, in its review of the draft statutes, needs to determine if the statutory language needs to be revised to allow for a grace period to be established by regulation. **After discussion, it was moved by Mr. Walton, seconded by Ms. Sos, and carried (5 "ayes" 1 "no") to make the following revisions to Section 5096 to allow for the adoption of a safe harbor period by regulation: Make the second sentence of 5096(c)(2) a new subdivision (d) and begin it with the words "Except as otherwise provided by this Article or by Board regulation..." Also, re-letter the subsequent provisions in Section 5096, and at the end of new subdivision (f) insert "unless a shorter period is set by Board regulation."** Ms. Sos commented that the subject of a safe harbor period will be on the agenda for discussion at the next meeting.

The Task Force then discussed the remaining provisions in proposed Article 5.1. During the discussion of the sunset date, it was suggested that the date should be changed from 2010 to 2011 so that there would be three full years of data on practice privileges before the Board's next sunset review report is due. **It was moved by Mr.**

## Memorandum

Practice Privilege TF Agenda Item V  
July 15, 2004

Board Agenda Item VIII.F.6  
July 16, 2004

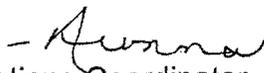
To : Practice Privilege Task Force Members  
Board Members

Date : July 5, 2004

Telephone : (916) 263-3788

Facsimile : (916) 263-3674

E-mail : [agranick@cba.ca.gov](mailto:agranick@cba.ca.gov)

From : Aronna Granick   
Legislation/Regulations Coordinator

Subject: Background Information for Consideration of Whether the Board Should  
Accept NASBA's Designation of States as Substantially Equivalent  
(Subject to Board Review) or Develops its Own List

Attached as background for your consideration of this issue is a listing of states identified as "substantially equivalent" by NASBA's National Qualification Appraisal Service. Also attached is a chart providing more detailed information about these states. The chart was provided to the Board by NASBA in January 2004. Staff are surveying the states that currently allow out-of-state CPAs to practice through the notification process to discover if these states rely on NASBA's designation of states as "substantially equivalent" or use some other procedure. Information on this survey will be available at the July 15-16, 2004, meetings.

Attachments

## National Qualification Appraisal Service

NASBA's National Qualification Appraisal Service (NQAS) determines if a **state's** CPA licensure requirements are substantially equivalent to the Uniform Accountancy Act's. The substantial equivalency concept is commonly referred to as "Section 23." CPAs who are licensed in substantially equivalent states and who are planning to practice in states that have adopted Section 23 may lawfully practice in those states by notification of intent.

It is the responsibility of the CPA to contact the board of accountancy in the state he intends to practice to determine if the state has adopted Section 23 and if it accepts notifications. Refer to Boards of Accountancy section of the NASBA web site for state board contact information.

### Substantially Equivalent States

The National Qualification Appraisal Service has found the following 45 jurisdictions to have CPA licensure requirements that are substantially equivalent to the Uniform Accountancy Act's.

Alabama*	Louisiana*	Oklahoma
Alaska	Maine	Oregon
Arizona	Maryland	Rhode Island
Arkansas	Massachusetts	South Carolina
California**	Michigan	South Dakota*
Connecticut	Minnesota	Tennessee
District of Columbia*	Mississippi	Texas
Georgia	Missouri*	Utah
Guam	Montana*	Virginia
Hawaii	Nebraska*	Washington*
Idaho	Nevada	West Virginia*
Illinois*	New Jersey	Wisconsin
Indiana	New Mexico	Wyoming*
Iowa*	North Carolina	
Kansas*	North Dakota	
Kentucky	Ohio	

\*Permit holders only

\*\*CPAs complying with Section 5093 only

### Non-Substantially Equivalent States

The National Qualification Appraisal Service has **not** found the following 9 jurisdictions to have CPA licensure requirements that are substantially equivalent to the Uniform Accountancy Act's.

Colorado	Pennsylvania
Delaware	Puerto Rico
Florida	Vermont
New Hampshire	Virgin Islands
New York	

STATE	EDUCATION		EXAMINATION			EXPERIENCE	SUBSTANTIALLY EQUIVALENT		COMMENTS
	BA/BS Degree	150-hour Effective Date	Within 6 exams	Min. failing grade of 50	Test Remaining Sections		One-Tier Licensing States	Permit Holders Only*	
Alabama	✓	1995	✓	✓	✓	--		YES	Two-tier state: experience not required for certificate (2 years of experience required for permit to practice).
Alaska	✓	2001	--	✓	✓	✓ 3 yrs. Or 2 yrs. w/ BS-Acct.	YES		All sections of the examination must be passed within five years or 10 consecutive examinations.
Arizona	✓	2004	✓	✓	✓	✓ 2 years	YES		
Arkansas	✓	1998	✓	✓	✓	✓ 1 year	YES		
California	✓	2001	✓	✓	✓	✓ 1 year		YES+	+California's revised act, enacted in October 2001, creates two tracks for licensure. While Section 5093 requires at least 150 semester hours for licensure and experience as outlined in the UAA, Section 5092 requires just 120 hours and two years of experience. Only California CPAs who comply with Section 5093 will be considered substantially equivalent to the UAA.
Colorado	✓	--	✓	✓	✓	✓ 1 year	--		Board accepts education in lieu of experience.
Connecticut	✓	2000	✓	✓	✓	✓ 3 years	YES		
Delaware	--	--	✓	✓	✓	✓ 4 years	--		Board accepts associate's degree. Minimum failing grade of 50 waived if three sections passed at one sitting.
District of Columbia	✓	2000	✓	✓	✓	--		YES	Two tier state: experience not required for certificate (2 years of experience required for permit to practice).
Florida	✓	1983	✓	✓	✓	NONE	--		No experience required. Minimum failing grade of 50 waived if three sections passed at one sitting.
Georgia	✓	1998	✓	✓	✓	✓ 2 years	YES		
Guam	✓	2000	✓	✓	✓	✓ 2 years/ 1 year (see note)		YES	Two-tier state: experience not required for certificate. Two years of experience is required to receive an Individual Permit to Practice for those who first sat as a Guam candidate in May 2000 or before; one year of experience is required for those who first sat as a Guam Candidate in November 2000 or after.
Hawaii	✓	2000	✓	✓	✓	✓ 2 years	YES		
Idaho	✓	2000	✓	✓	✓	✓ 1 year	YES		Minimum failing grade of 50 waived if three sections passed at one sitting.

STATE	EDUCATION		EXAMINATION			EXPERIENCE	SUBSTANTIALLY EQUIVALENT		COMMENTS
	BA/BS Degree	150-hour Effective Date	Within 6 exams	Min. failing grade of 50	Test Remaining Sections		One-Tier Licensing States	Permit Holders Only	
Illinois	✓	2000	✓	✓	✓	--		YES	Two-tier state: experience not required for certificate (1 year of experience required for a permit to practice).
Indiana	✓	2000	✓	✓	✓	✓ 2 years	YES		
Iowa	✓	2000	✓	✓	✓	✓ 1 year	YES		One year of experience is required for the certificate; 4,000 hours of experience in a minimum of two years is required to perform attest services.
Kansas	✓	1997	✓	✓	✓	--		YES	Two-tier state: experience not required for certificate (1 year of experience required for a permit to practice).
Kentucky	✓	2000	✓	✓	✓	✓ 1 year	YES		
Louisiana	✓	1996	✓	✓	✓	--		YES	Two-tier state: experience not required for certificate (2 years of experience required for a permit to practice).
Maine	✓	2002	✓	✓	✓	✓ 2 years	YES		
Maryland	✓	1999	✓	✓	✓	✓ 1 year	YES		
Massachusetts	✓	2002	✓	✓	✓	✓ 3 years	YES		
Michigan	✓	2003	✓	✓	✓	✓ 2 years	YES		
Minnesota	✓	2006	✓	✓	✓	✓ 1 year	YES**		**150-hour requirement not effective until July 1, 2006.
Mississippi	✓	1995	✓	✓	✓	✓ 1 year	YES		
Missouri	✓	1999	✓	✓	✓	✓ 1 year	YES		
Montana	✓	1997	✓	✓	✓	--		YES	Two-tier state: experience not required for certificate (1 year of attest or 2 years of private, governmental, or public accounting experience required for a permit to practice).
Nebraska	✓	1998	✓	✓	✓	--		YES	Two-tier state: experience not required for certificate (2 years of experience required for a permit to practice).
Nevada	✓	2001	✓	✓	✓	✓ 2 years	YES		

STATE	EDUCATION		EXAMINATION			EXPERIENCE	SUBSTANTIALLY EQUIVALENT		COMMENT
	BA/BS Degree	150-hour Effective Date	Within 6 exams	Min. failing grade of 50	Test Remaining Sections		One-Tier Licensing States	Permit Holders Only	
New Jersey	✓	2000	--	✓	✓	✓ 1 year	YES		Candidates are required to pass all sections within ten consecutive examinations.
New Hampshire	✓	--	--	✓	✓	✓ 2 years	--		150-hr. requirement not adopted; candidates are required to pass all sections within five years or ten consecutive examinations.
New Mexico	✓	2004	✓	✓	✓	✓ 1 year	YES		
New York	✓	2009	✓	--	--	✓ 2 years	--		150-hr. rule is partially in effect within the 5-year UAA requirement but allowing some candidates to comply by 2009; no minimum failing grade on examination and candidates are not required to take all unpassed sections at one sitting.
North Carolina	✓	2001	✓	✓	✓	✓ 1 year	YES		
North Dakota	✓	1999	✓	✓	✓	✓	YES		
Ohio	✓	2000	✓	✓	✓	✓ 2 years	YES		
Oklahoma	✓	2003	✓	✓	✓	✓ 1 year	YES		
Oregon	✓	2000	✓	✓	✓	✓ 2 years	YES		
Pennsylvania	✓	2000	✓	--	--	✓ 2 years	--		Minimum failing grade is 20 and candidates are not required to take all unpassed sections at one sitting.
Puerto Rico	✓	2000	✓	✓	✓	8 years of experience in lieu of education req.	--		Candidates who earned conditioned credit prior to 1994 are exempt from taking all unpassed sections at one sitting. No experience required for those who meet the educational requirement.
Rhode Island	✓	1999	✓	✓	✓	✓ 1 year	YES		Conditioned credit expires within six consecutive examinations or five years, whichever comes first.
South Carolina	✓	1997	✓	✓	✓	✓ 2 years	YES		
South Dakota	✓	1998	✓	✓	✓	✓ 1 year	YES		SD candidates who have completed a bachelor's degree in accounting and who do not have 150 hours may apply for the exam under ARSD:20:75:02:04(3), which allows a candidate to apply to the board for consideration of 4 years of accounting experience in lieu of the additional 30 hrs.

STATE	EDUCATION		EXAMINATION			EXPERIENCE	SUBSTANTIALLY EQUIVALENT		COMMENTS
	BA/BS Degree	150-hour Effective Date	Within 6 exams	Mtn. failing grade of 50	Test Remaining Sections		One-Tier Licensing States	Permit Holders Only	
Tennessee	✓	1993	✓	✓	✓	2 years	YES		Two years of experience are required for those performing attest services; only one year of experience is required to obtain a certificate.
Texas	✓	1997	✓	✓	✓	2 years	YES		
Utah	✓	1994	✓	✓	✓	1 year	YES		
Vermont	--	--	✓	✓	✓	2 years	--		College degree not required; 150-hr. requirement not adopted.
Virgin Islands	--	--	✓	✓	✓	2 years	--		Board accepts high school diploma as educational requirement.
Virginia	✓	2006	✓	✓	✓	1 year**	YES***		**One year of experience is required for a CPA certificate. An additional year of specified audit and review experience is required of CPAs who supervise audits and reviews AND sign reports on financial statements.  ***150-hr. rule is in effect after the 5-year UAA requirement but deemed substantially equivalent by NASBA Qualification Appraisal Service.
Washington	✓	2000	✓	✓	✓	--		YES	Two-tier state: experience not required for certificate (1 year of experience required for a permit to practice).
West Virginia	✓	2000	✓	✓	✓	1 year	YES		
Wisconsin	✓	2001	✓	✓	✓	1 1/2 years	YES		Minimum failing grade of 50 waived if three sections passed at one sitting.
Wyoming	✓	1999	✓	✓	✓	--		YES	Two-tier state: experience not required for certificate (2 years of experience required for a permit to practice).

- ✓ State complies with UAA
- State does not comply with UAA

\* State law provides that certificate holders must have permits (licenses) in order to practice accounting. The licensing provisions of these states are substantially equivalent to the UAA with respect to permit holders only.

## Memorandum

Practice Privilege TF Agenda Item V  
July 15, 2004

Board Agenda Item VIII.F.6  
July 16, 2004

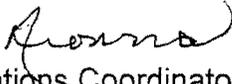
To : Practice Privilege Task Force Members  
Board Members

Date : July 12, 2004

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From : Aronna Granick –   
Legislation/Regulations Coordinator

Subject : Use of NASBA's Qualifications Appraisal Service by States That Have Adopted  
UAA Section 23

This memo transmits the results of a brief survey of the 23 states that have adopted UAA Section 23 related to cross-border practice rights. It is provided as background for your consideration of the agenda item related to whether the Board should accept NASBA's designation of states as substantially equivalent (subject to Board review) or develop its own list.

To date, ten states have responded to the survey. Four states (Kansas, Kentucky, New Mexico, and Ohio) reported they rely on NASBA. Six states (Indiana, Louisiana, New Hampshire, North Carolina, South Dakota, and Tennessee) reported they use their own procedures. It is interesting to note that one state, New Hampshire, has adopted UAA Section 23, but is not a "substantially equivalent state" with regard to conforming to the UAA's education, exam, and experience requirements.

Attachment

**Use of NASBA's Qualifications Appraisal Service by  
States That Have Adopted UAA Section 23**

<b>JURISDICTION</b>	<b>1. Does your state rely on NASBA's Qualifications Appraisal Service to identify "Substantially Equivalent" states, or do you use your own procedures to evaluate other states' licensing laws?</b>	<b>2. What factors were considered in reaching this decision?</b>	<b>3. If you rely on NASBA, does your Board conduct a review of NASBA's designations. If yes, please describe briefly the process you use.</b>	<b>4. If you rely on NASBA, is this stated in a statute or Board regulation?</b>	<b>5. Have you ever encountered any problems? -- If yes, please briefly describe.</b>
<b>Indiana</b>	No, the Indiana State Board of Accountancy does not rely on NASBA's Qualifications Appraisal Service to identify "Substantially Equivalent" states. At present, practitioners only need to complete and submit a "Notice of Intent" to practice by substantial equivalency along with a certification of their license from the state of issuance. If they meet the qualifications, they are granted the privilege for one year, which is then renewable every year in January.	No Response.	N/A	NA	No Response.
<b>Kansas</b>	Yes, Kansas' statute provides for NASBA's National Qualification Appraisal Service, or similar organization approved by the Board.	No Response.	We rely a lot on NASBA's list of substantially equivalent states; however, we also make our own judgment calls based upon a case-by-case basis when necessary.	In a statute.	No

**JURISDICTION**

1. Does your state rely on NASBA's Qualifications Appraisal Service to identify "Substantially Equivalent" states, or do you use your own procedures to evaluate other states' licensing laws?

2. What factors were considered in reaching this decision?

3. If you rely on NASBA, does your Board conduct a review of NASBA's designations. If yes, please describe briefly the process you use.

4. If you rely on NASBA, is this stated in a statute or Board regulation?

5. Have you ever encountered any problems? -- If yes, please briefly describe.

<p><b>Kentucky</b></p>	<p>KY relies on NASBA's service, but the regulation which covers this area authorizes the Board to have the final authority.</p>	<p>The Board still has the final approval over all of the states that NASBA deems substantially equivalent, but felt it could rely upon NASBA in this area as far as making recommendations. Staff will check the determination made by NASBA as new states are added to the list.</p>	<p>Yes, as new states are added. Review over the Internet of the requirements listed in statutes and regulations.</p>	<p>Regulation.</p>	<p>No.</p>
<p><b>Louisiana</b></p>	<p>Louisiana uses its own procedures</p>	<p>LA's statute requires that the qualifications be determined as substantially equivalent to the licensure requirements of the Louisiana Accountancy Act, not the "Uniform Accountancy Act." The LA Board did not consider it appropriate to assign to another entity the authority to make such determinations.</p>	<p>N/A</p>	<p>N/A</p>	<p>No response.</p>

<b>JURISDICTION</b>	1. Does your state rely on NASBA's Qualifications Appraisal Service to identify "Substantially Equivalent" states, or do you use your own procedures to evaluate other states' licensing laws?	2. What factors were considered in reaching this decision?	3. If you rely on NASBA, does your Board conduct a review of NASBA's designations. If yes, please describe briefly the process you use.	4. If you rely on NASBA, is this stated in a statute or Board regulation?	5. Have you ever encountered any problems? -- If yes, please briefly describe.
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<b>New Hampshire</b>	New Hampshire uses its own procedures. For an individual without an office in NH who wants to serve New Hampshire clients. The NH Board requires the firm to register with a Foreign Accountants Practice Permit (FAPP). This permit requires that individuals licensed to practice public accounting register with NH on the FAPP.	With limited staff, and limited resources, we have basically simplified procedures, as it is impossible to keep track of what state is substantially equivalent and who is not and why.	N/A	N/A	No Response.
<b>New Mexico</b>	New Mexico uses NASBA's Qualifications Appraisal Service.	This was written as part of the new Board rules that were adopted in February 2002.	No.	Regulation.	No.
<b>North Carolina</b>	No, the NC Board policy is a CPA=CPA. If a CPA is licensed to practice public accounting in a jurisdiction and has passed all four sections of the CPA exam then we accept him or her for notification on intent to practice, non-resident reciprocity or reciprocity without looking at anything else.	Reliance is put on licensure in other states.	N/A	N/A	No.

**JURISDICTION**

1. Does your state rely on NASBA's Qualifications Appraisal Service to identify "Substantially Equivalent" states, or do you use your own procedures to evaluate other states' licensing laws?

2. What factors were considered in reaching this decision?

3. If you rely on NASBA, does your Board conduct a review of NASBA's designations. If yes, please describe briefly the process you use.

4. If you rely on NASBA, is this stated in a statute or Board regulation?

5. Have you ever encountered any problems? -- If yes, please briefly describe.

<p><b>Ohio</b></p>	<p>Yes, Ohio uses the NASBA's Qualifications Appraisal Service with some modifications. At present, all states are considered substantially equivalent to Ohio. We do require that CPAs from the non-150-hour states and some others, such as two-tier states, to hold an actual license to practice public accounting in order to obtain substantial equivalency. Florida has no experience requirement, so we require experience verification from Florida CPAs.</p>	<p>No Response.</p>	<p>No Response.</p>	<p>No Response.</p>	<p>No answer.</p>
<p><b>South Dakota</b></p>	<p>No, we use our own procedures in reviewing substantial equivalency.</p>	<p>If an individual is "licensed" and in good standing in another state, they may apply for temporary practice rights in SD.</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>
<p><b>Tennessee</b></p>	<p>Tennessee uses their own procedures; however we are in the process of changing the way we process "substantially equivalent" individuals.</p>	<p>No Response.</p>	<p>N/A</p>	<p>N/A</p>	<p>No.</p>

## Memorandum

Practice Privilege TF Agenda Item VI  
July 15, 2004

Board Agenda Item VIII.F7  
July 16, 2004

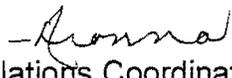
To : Practice Privilege Task Force Members  
Board Members

Date : July 5, 2004

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From : Aronna Granick   
Legislation/Regulations Coordinator

Subject : Background Information for Consideration of Whether the Board Should  
Accept NASBA's Determination of an Individual's Substantial Equivalency  
or Use Some Other Method for Assessing the Qualifications of CPAs from  
Non-Substantially Equivalent States

Attached as background for your consideration of this issue are materials related to NASBA's CredentialNet that were provided for consideration by the UAA Task Force at its meeting of January 26, 2004. Attachment 1 provides information from CredentialNet that was provided to the Board in response to our inquiry. The chart referred to in the second paragraph of Attachment 1 is provided under Practice Privilege Task Force Agenda Item V (Board Agenda Item VIII.F.6) as it relates more specifically to substantially equivalent states than to the evaluation of the qualifications of individuals. Attachment 2 provides the application packet CredentialNet uses in its individual evaluations. Attachment 3 provides information about the services CredentialNet provides for states. Also attached (Attachment 4) are excerpts from the minutes of the January 26, 2004, meeting.

Attachments

Through CredentialNet, NASBA provides interstate practice related services to CPAs and to boards of accountancy by processing individual substantial equivalency evaluations and notifications of intent. For states that have adopted Section 23, "Substantial Equivalency," the individual substantial equivalency evaluation assists those applicants who hold licenses in states that have not been deemed substantially equivalent by the National Qualification Appraisal Service. The individual substantial equivalency evaluation may be used as part of the process for obtaining a reciprocal license or filing a notification of intent to practice, depending on the rules of the state in which the applicant intends to practice. Currently, seven states use the CredentialNet service to handle applicants who hold licenses in "non-substantially equivalent" states. These states include Arkansas, Kansas, New Mexico, North Dakota, Oklahoma, Oregon, and Tennessee. NASBA is able to customize services to meet a board of accountancy's specific requirements.

### **Definition of Substantial Equivalency**

Under this concept, which was first included in the UAA-Third Edition in January 1998, if a CPA has a valid license from a state with CPA licensing criteria that are "substantially equivalent" to those outlined in the Uniform Accountancy Act or if the CPA's credentials individually have been deemed substantially equivalent, then the CPA can cross state lines to practice in another state without obtaining a license in that state. However, the CPA must notify the state board of his or her intent to practice and agree to follow the law and rules of that state. The National Qualification Appraisal Service has deemed 45 states to have education, examination, and experience requirements that are substantially equivalent to the UAA. For a complete list of substantially equivalent states, please refer to the enclosed chart.

### **Substantial Equivalency Evaluation Requirements**

#### **Education**

At least a 150 hours of college education including a baccalaureate degree or its equivalent.

Grandfathering: Anyone who passed the CPA Examination before January 1, 2001 will be eligible personally to obtain substantial equivalency for the purpose of interstate practice even if he/she has not completed 150 hours of education. Individuals who pass the CPA Examination after January 1, 2001 must complete the 150-hour education requirement.

#### **Examination**

A candidate shall be required to pass all sections of the examination provided for in Section 5(d) of the UAA in order to qualify for a certificate. Prior to the implementation of the computer-based examination, if at a given sitting of the examination a candidate passes two or more but not all sections, then the candidate shall be given credit for those sections that the candidate has passed and need not sit for reexamination in those sections, provided that

- (1) at that sitting the candidate wrote all sections of the examination for which the candidate does not have credit;
- (2) the candidate attained a minimum grade of 50 on each section taken at that sitting;
- (3) the candidate passes the remaining sections of the examination within six consecutive examinations given after the one at which the first sections were passed;
- (4) at each subsequent sitting at which the candidate seeks to pass any additional sections, the candidate sits for all sections for which the Candidate does not have credit; and
- (5) in order to receive credit for passing additional sections in any such subsequent sitting, the candidate attains a minimum grade of 50 on sections taken at that sitting.

*Information on CredentialNet  
for the California Board of Accountancy*

### **Experience**

Applicants must have one year of experience. This experience shall include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills all of which must be verified by a licensee. This experience would be acceptable if it was gained through employment in government, industry, academia or public practice.

CredentialNet provides substantial equivalency evaluations based on the requirements above. The administration and processes for the evaluation can be tailored to the board's preference.

### **Administrative Staff**

NASBA currently employs staff who are knowledgeable in accounting education, educational credential evaluation, application processing, examination administration, grade reporting, accounting experience reviews, certification/licensure application procedures, continuing professional education, reciprocity (both interstate and international), public information initiatives, customer service, complaint resolution, disciplinary procedures, records maintenance, confidentiality concerns, and examination and candidate record security issues.

NASBA's Director of Compliance Services, Yordanos Dumez, is a CPA and former state board auditor. Ms. Dumez manages the CredentialNet service. An additional two full-time employees comprise the CredentialNet staff. The Compliance Services department utilizes CPAES's credential evaluation's services for credential evaluations.

### *Questions Related to License History (Section C of the Application):*

1. Once the applicant's qualifications are evaluated and determined to be substantially equivalent, is the applicant ever required to update the information in the License History section of the application form? When are updates required?  
**A: Yes, applicants are required to update/renew their licensing history. For instance, if an approved applicant needed to have his/her information forwarded to another board of accountancy and the time since the original application had been more than one year, the applicant would be asked to update any information that has changed. CredentialNet staff check licensing information to ensure that it is current and accurate. Since CredentialNet can be tailored to fit a board's needs, renewal frequency can also be dictated by the board.**
  
2. If the applicant answers "yes" to any of the questions related to discipline or criminal history, (page 2) and must attach an explanation sheet, how is the explanation evaluated? Under what circumstances would this information mean the applicant is not qualified for substantial equivalency? Aside from self-reporting, what other mechanisms does CredentialNet use to obtain information related to "good character"?  
**A: If an applicant answers "yes" to any of the questions related to discipline or criminal history, the applicant's file is sent to the appropriate board for further consideration. An applicant would not qualify for substantial equivalency for lack of "good moral character" as defined in Section 5 (b) of the UAA.**

*Information on CredentialNet  
for the California Board of Accountancy*

Aside from self-reporting, CredentialNet, through the use of the "Authorization For Interstate Exchange of Examination and Licensure Information" form, validates examination, licensure, and disciplinary history, provided directly to us by a board of accountancy.

3. How is "good character" defined? What percentage of applications are rejected because of failure to demonstrate "good character"?

A: Good character is defined in Section 5 (b) of the Uniform Accountancy Act:

**"Section 5 – Qualifications for a Certificate As a Certified Public Accountant**

5(b) Good moral character for purposes of this Section means lack of a history of dishonest or felonious acts. The Board may refuse to grant a certificate on the grounds of failure to satisfy this requirement only if there is a substantial connection between the lack of good moral character of the applicant and the professional responsibilities of a licensee and if the finding by the Board of lack of good moral character is supported by clear and convincing evidence. When an applicant is found to be unqualified for a certificate because of a lack of good moral character, the Board shall furnish the applicant [a] statement containing the findings of the Board, a complete record of the evidence upon which the determination was based, and a notice of the applicant's right of appeal."

Less than 2 percent of applications are rejected because of failure to demonstrate good character.

*Questions Related to Education (Section D of the Application):*

1. Must the 150 hours of education be completed pre-licensure?

A: No. If an applicant had not completed the 150 hours of education before being licensed in their home state, it would not prevent him/her from being deemed substantially equivalent, as long as the 150 hours of education requirement was met for the substantial equivalency evaluation.

2. Must the applicant meet all of the requirements in UAA Rule 5-2? Are any exceptions made because the applicant's home state currently or previously had different educational requirements?

A: The education element of the individual substantial equivalency evaluation only requires that the applicant receive a baccalaureate degree with a total of 150 hours of education. In addition, anyone who passed the Uniform CPA Examination before January 1, 2001 is eligible personally to obtain substantial equivalency for the purpose of interstate practice even if they have not completed 150 hours of education. Individuals who pass the Uniform CPA Examination after January 1, 2001 must complete the 150 hours of education requirement in order to be eligible for

*Information on CredentialNet  
for the California Board of Accountancy*

substantial equivalency. Appendix C of the Uniform Accountancy Act, "Substantial Equivalency," covers this information.

3. If the applicant was educated outside the United States, how is education evaluated? If a credentials evaluation service is used, how is it selected?

**A:** Foreign credentials are evaluated by a member of the National Association Credential Evaluation Services (NACES.) Boards have the option of choosing the agency they prefer.

*General Questions*

1. Can all applicants who are deemed substantially equivalent sign and issue attest reports? Does this depend on what services the applicant can perform in the home state?

**A:** NASBA's individual substantial equivalency evaluation only determines whether or not an individual's credentials are substantially equivalent to the Uniform Accountancy Act. The individual would be required to follow the law and rules that pertain to attestation services in the state in which he or she intends to practice

2. How long does it take CredentialNet to process an application once all of the materials are received? How is CredentialNet's decision communicated to the applicant? Is there an appeal process if the applicant disagrees?

**A:** Total processing for CredentialNet applications is approximately six to eight weeks. Because CredentialNet requires primary source verification on all documentation (transcripts, authorization for interstate exchange forms, certificates of experience), the gathering of this information comprises the bulk of the processing time. After all primary source verification is received, the evaluation takes less than one week. The decision is officially communicated via letter. If the applicant disagrees with the decision, he may appeal by writing to CredentialNet within four weeks of the date of the decision letter.

3. How many licensees have requested an evaluation of individual substantial equivalency from CredentialNet? How many have been determined to be substantially equivalent?

**A:** Since the inception of the substantial equivalency evaluations in May 1999, CredentialNet has processed approximately 160 individual substantial equivalency evaluations for the following states: Arkansas, Kansas, Oklahoma, Tennessee, New Mexico, Oregon, and North Dakota. Of the 160, 152 have been determined substantially equivalent.

4. Once the application is approved and on file with CredentialNet, how is this information communicated to the accountancy board in the state the licensee plans to enter? Does the licensee ask CredentialNet to forward the information to the state board or must the board request it from CredentialNet? How long does it take?

*Information on CredentialNet  
for the California Board of Accountancy*

**A:** Upon approval of application, NASBA sends a "CPA Portfolio" that summarizes the applicant's credentials and the primary source verification to the board in the state in which the CPA intends to practice. The CPA Portfolio is sent to the board at the same time the decision letter is mailed to the applicant.

5. Provide a description of similar services you are currently providing to state boards, names of the states, and the charges associated with the services provided. Specifically, we would like you to address whether you validate licensure status, validate the address provided, and require self-disclosure of criminal convictions. If you do require disclosure of criminal convictions, how do you follow-up if a conviction is disclosed? In addition, please include an explanation of the process followed to notify the licensee and state board of the outcome and how quickly you are able to complete the process.

NASBA provides substantial equivalency evaluation services for the following boards: Arkansas, Kansas, Oklahoma, Oregon, New Mexico, North Dakota, and Tennessee. Please refer to the attached document that lists all current substantial equivalency services, including: type of evaluation; requirements and supporting documentation; participating boards; fees; and the type of report provided to boards and applicants. Also included is a list that describes an adjunct CredentialNet service - evaluation of initial applications for both individuals and firms for the Colorado Board of Accountancy

All of NASBA's current CredentialNet services evaluate for licensure status and require self-disclosure of criminal convictions. If a conviction is disclosed, the board in the state in which the applicant wishes to practice is notified and feedback is requested.

## Attachment 2

# Substantial Equivalency

## Individual Evaluations

A number of states have adopted Section 23 of the Uniform Accountancy Act (UAA), which (among other things) states that an individual who holds a license in a non-substantially equivalent state may obtain an individual substantial equivalency evaluation from NASBA. This evaluation may enable a CPA to practice in a substantially equivalent state, even though he is not licensed in one.

The evaluation is based on requirements outlined in the UAA:

**Good Character (Section 5(b)).** Applicants must not have a history of dishonest or felonious acts.

**Education (Rule 5-2).** Applicants must have 150 hours of education. Grandfathering: Anyone who passed the CPA Examination before January 1, 2001 will be eligible personally to obtain substantial equivalency for the purpose of interstate practice even if they have not completed 150 hours of education. Individuals who pass the CPA Examination after January 1, 2001 must complete the 150 hour education requirement. (Appendix C, Substantial Equivalency)

**Examination (Rule 5-7).** Applicants must pass all sections of the Uniform CPA Examination with a minimum passing grade of 75 for each section.

**Experience (Rule 6-2).** Applicants must have one year of experience providing any type of service or advice using accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills.

To obtain a substantial equivalency evaluation, a CPA should complete a CredentialNet application. If you have Adobe Acrobat Reader, you may click on the link below to download the CredentialNet application in Acrobat format.

### Evaluation

To obtain an application through the mail, call us at 615-880-4200, extension 2271, or email us at [credentialnet@nasba.org](mailto:credentialnet@nasba.org).

CredentialNet  
150 Fourth Avenue North, Suite 700  
Nashville, TN 37219  
615.880.4200 fax: 615.880.4292  
email: [credentialnet@nasba.org](mailto:credentialnet@nasba.org)

CREDENTIAL  NET

Application  
Packet

CredentialNet, a service of the National Association of State Boards of Accountancy (NASBA), is a comprehensive resource for CPAs who practice across state lines. It handles reciprocal applications, notifications, and substantial equivalency evaluations for certain states. If you are a CPA with a current license or permit to practice accounting and you are planning to practice accounting in another state, you are required to comply with the laws and rules of the state in which you intend to practice.

Determine the code that is applicable to you by reading the following information. Follow instructions according to the code.

#### Code 2

If you are planning to practice in Florida, Missouri, New Jersey, or Pennsylvania, you may qualify for a reciprocal or temporary license through CredentialNet. Individuals who plan to practice in multiple states are urged to enroll in the program. Complete the enclosed CredentialNet application and supporting forms. Depending on the state in which you intend to practice, you will also be required to complete some state-specific forms.

#### Code 3

A number of states have adopted Section 23 of the Uniform Accountancy Act (UAA), which states that an individual who holds a license in a non-substantially equivalent state may obtain an individual substantial equivalency evaluation from NASBA. This evaluation enables a CPA to practice in a substantially equivalent state, even though he is not licensed in one. Complete the enclosed application and supporting forms to receive an individual substantial equivalency evaluation.

The evaluation is based on requirements outlined in the UAA:

**Good Character (Section 5(b)).** Applicants must not have a history of dishonest or felonious acts.

**Education (Rule 5-2).** Applicants must have 150 hours of education. Grandfathering: Anyone who passed the CPA Examination before January 1, 2001 will be eligible personally to obtain substantial equivalency for the purpose of interstate practice even if they have not completed 150 hours of education. Individuals who pass the CPA Examination after January 1, 2001 must complete the 150 hour education requirement. (Appendix C, Substantial Equivalency)

**Examination (Rule 5-7).** Applicants must pass all sections of the Uniform CPA Examination with a minimum passing grade of 75 for each section. They must have a minimum failing grade of 50. They must have passed the exam within six consecutive sittings following the first exam. At any sitting, they must have taken all sections not passed.

**Experience (Rule 6-2).** Applicants must have one year of experience providing any type of service or advice using accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills.

#### Code 3A

This code applies only to CPAs planning to practice accounting temporarily in the state of Tennessee. If you hold a license/permit to practice in Arizona, California, Colorado, Delaware, Florida, Guam, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Mexico, New York, North Dakota, Oklahoma, Puerto Rico, Vermont, Virgin Islands, or Virginia, you are considered to be from a non-substantially equivalent state (under Tennessee's rules). However, you may qualify to practice accounting by receiving an individual substantial equivalency evaluation from CredentialNet.

The Tennessee certification criteria are as follows:  
**Good Character.** An applicant must not have a history of dishonest or felonious acts.

**Education and Experience.** An applicant must have 150 hours of education and one year of experience. If an applicant does not have 150 hours of education, he must have four years of experience after passing the Uniform CPA Examination.

**Examination.** An applicant must have passed the Uniform CPA Examination.

**Ethics Exam.** An applicant must have passed an examination in ethics and professional conduct.

All substantial equivalency evaluations and notifications for Tennessee are processed by CredentialNet. Complete the enclosed application packet.

#### Code 4A

This code applies only to CPAs planning to practice accounting temporarily in the state of Tennessee. If you hold a license/permit to practice in Alaska, Alabama, Arkansas, Connecticut, District of Columbia, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Washington, West Virginia, Wisconsin, or Wyoming, you are considered to be from a substantially equivalent state (under Tennessee's rules). You are required to notify the state of Tennessee through CredentialNet. Complete the required sections of the enclosed application packet.

## Application Form

**A. Applicant Type.**  
Check the code(s) that apply. Follow instructions according to the code(s).

If you plan to practice in multiple states now or in the future, it is recommended that you complete all sections of the application, regardless of your code type.

**B. Biographical Information.**

**C. Licensing History**  
List ALL professional licenses, the issuing state/jurisdiction, the type of license or credential, the certificate or license number, and the date it was first issued.  
Complete the Authorization for Interstate Exchange Form for each license listed.

**Code 2 Reciprocal License.**  
List state(s) in which you intend to practice \_\_\_\_\_

The specified states will receive a summary report of your file.

**Code 3 Substantial Equivalency Evaluation**  
List state(s) in which you intend to practice \_\_\_\_\_

Upon your approval, the specified states will receive a letter indicating that you have met UAA substantial equivalency standards.

**Code 3A Tennessee Substantial Equivalency Evaluation and Notification**

**Code 4A Tennessee Notification Only**

\_\_\_\_\_  
First Name Middle Name Last Name Suffix (Jr, III)

\_\_\_\_\_  
Date of Birth Social Security Number

If you have used alternate names in the past (e.g., a maiden name) list first, middle, and last names: \_\_\_\_\_

\_\_\_\_\_  
Business Address  Check if you wish to receive mail at this address.

\_\_\_\_\_  
Employer Name

\_\_\_\_\_  
Street or P.O. Box

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Telephone Fax email

\_\_\_\_\_  
Residence Address  Check if you wish to receive mail at this address.

\_\_\_\_\_  
Street or P.O. Box

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Telephone Fax email

\_\_\_\_\_  
State/Jurisdiction License/Permit Type Number Date First Issued

\_\_\_\_\_  
What state/jurisdiction granted your original license or certificate?

**3A and 4A applicants only:**

Have you ever been certified in Tennessee? Yes No

If yes, what was your license number? \_\_\_\_\_

**F. Experience.**

List employment information. Use month/year format for dates.

Code 2 applicants: List your current employer and past employers.

Code 3 applicants: List your current employer or past employers, provided the total amount of employment equals at least one year.

Code 3A applicants: If you have completed 150 hours of education, you are required to show evidence of one year of full-time employment. List your current employer or past employers, provided that the total years of employment equals at least one year. If you have not completed 150 hours of education, you are required to show evidence of four years of full-time employment. List information so that the total amount of employment equals at least four years.

Make a copy of this form to list more than four employers.

Complete a Certificate of Experience for each employer listed.

**G. Professional References.**

Code 2 applicants only. List three references. References should be from business or professional individuals, and must not be relatives.

CredentialNet will submit a Professional Reference Verification Form to all persons listed.

Company Name \_\_\_\_\_

Supervisor's Name \_\_\_\_\_

Address (Street, City, State, Zip) \_\_\_\_\_

Phone Number \_\_\_\_\_

Dates of Employment From \_\_\_\_\_ To \_\_\_\_\_

Company Name \_\_\_\_\_

Supervisor's Name \_\_\_\_\_

Address (Street, City, State, Zip) \_\_\_\_\_

Phone Number \_\_\_\_\_

Dates of Employment From \_\_\_\_\_ To \_\_\_\_\_

Company Name \_\_\_\_\_

Supervisor's Name \_\_\_\_\_

Address (Street, City, State, Zip) \_\_\_\_\_

Phone Number \_\_\_\_\_

Dates of Employment From \_\_\_\_\_ To \_\_\_\_\_

Company Name \_\_\_\_\_

Supervisor's Name \_\_\_\_\_

Address (Street, City, State, Zip) \_\_\_\_\_

Phone Number \_\_\_\_\_

Dates of Employment From \_\_\_\_\_ To \_\_\_\_\_

1. Name \_\_\_\_\_

Company \_\_\_\_\_

Business Address \_\_\_\_\_

Business Telephone \_\_\_\_\_

2. Name \_\_\_\_\_

Company \_\_\_\_\_

Business Address \_\_\_\_\_

Business Telephone \_\_\_\_\_

3. Name \_\_\_\_\_

Company \_\_\_\_\_

Business Address \_\_\_\_\_

Business Telephone \_\_\_\_\_



150 Fourth Avenue North  
 Suite 700  
 Nashville, TN 37219-2417  
 (615) 880-4200

## Authorization For Interstate Exchange of Examination and Licensure Information

Applicants: Complete section A of this form and return it with your CredentialNet application. By signing this form, you are authorizing CredentialNet to obtain this information from the board of accountancy listed.

State Boards: The applicant in section A of this form has authorized you to provide any and all pertinent information requested in sections B through E in this form to CredentialNet, a service of the National Association of State Boards of Accountancy. Please return the form to CredentialNet at the address listed above.

**A. ALL APPLICANTS  
 MUST COMPLETE THIS  
 SECTION.**

Provide your name and address, date of birth, and social security number. Sign and date the form.

First Name	Middle Name	Last Name	Suffix
Street or P.O. Box			
City	State	Zip Code	Daytime Telephone
Date of Birth		Social Security Number	
Certificate Number (if applicable)			
I hereby request and authorize the _____ (insert board of accountancy name) to provide any and all pertinent information requested in this form to CredentialNet. I agree that CredentialNet may confirm the grades issued to me by the Advisory Grading Service of the American Institute of Certified Public Accountants.			
Signature		Date	

**B. Verification of Examination Credits. STATE BOARD: COMPLETE THIS SECTION.** Provide Uniform CPA Examination grade information for the candidate listed above, as reported by the AICPA Advisory Grading Service. List all grades, including failing grades, for the applicant. If any of the grades were changed, if an exam other than the Uniform CPA Examination was used, or if there is any reason why the grades should not be accepted, use section E of this form.

Date of Examination	Candidate ID #	Audit	LPR (Business Law)	FARE (Theory)	FARE (Practice)

1. Was the applicant ever denied admission to the Examination? Yes No (If yes, use section D.)
2. If the applicant has not passed all parts of the Uniform CPA Examination, are there any restrictions preventing him/her from taking the Examination in your state? Yes No (If yes, use section D.)
3. If the applicant has not passed all parts of the Uniform CPA Examination, indicate above the expiration date of those parts that have been passed and for which credit has been given.



150 Fourth Avenue North  
 Suite 700  
 Nashville, TN 37219-2417  
 (615) 880-4200

## Transcript Request Form

**Applicants:** Complete sections A and B of this form. If you need to obtain transcripts from more than one school, make a copy of this form. Contact the school directly to determine if there is a transcript request fee. If applicable, include the fee in your total application fee. Return this form with your application; do not send to the school.

**Registrars:** The applicant whose name appears below has authorized CredentialNet, a service of the National Association of State Boards of Accountancy, to obtain a copy of his/her transcript for accounting licensure purposes. Please send a copy of an official transcript directly to CredentialNet at the address listed above. Do not send to the applicant.

**A. ALL APPLICANTS MUST COMPLETE THIS SECTION.**

Provide your name and address, date of birth, and student identification number.

First Name	Middle Name	Last Name	Suffix (Jr., III)
If you were registered under another name at this school, please provide that name:			
First Name	Middle Name	Last Name	Suffix
Street or P.O. Box			
City	State	Zip Code	Telephone
Date of Birth	Student Identification Number	Social Security Number	

**B. ALL APPLICANTS MUST COMPLETE THIS SECTION.**

Provide the college or university name and address and your attendance information.

College or University			
Street or P.O. Box			
City	State	Zip Code	
Degree	Dates of Attendance	Date of Graduation	
Transcript Request Fee _____			

I hereby authorize the school named above to send a copy of my transcript directly to CredentialNet at the address listed above.

Signature _____	Date _____
-----------------	------------



150 Fourth Avenue North  
 Suite 700  
 Nashville, TN 37219-2417  
 (615) 880-4200

## Certificate of Experience

**Applicants:** Complete sections A and B of this form and return with your CredentialNet application. If experience was obtained from more than one entity, make a copy of this form and complete a Certificate of Experience for each entity.

**Supervisors/Verifiers:** Please verify the information presented in section C. Send this form directly to CredentialNet at the address listed above. By signing the form, you are authorizing CredentialNet to verify your license/certificate with the appropriate board of accountancy.

**A. Applicant Information.**

**APPLICANTS:**  
 COMPLETE THIS SECTION. Indicate whether you are a Code 2, Code 3, or Code 3A applicant.

First Name	Middle Name	Last Name
Address		City
State		Zip Code
Telephone Number		Social Security Number
<input type="checkbox"/> Code 2		<input type="checkbox"/> Code 3
		<input type="checkbox"/> Code 3A

**B. Employer Information.**

**APPLICANTS: COMPLETE THIS SECTION.** List employer information, your position, dates of employment, and the name of your supervisor at the time. CredentialNet will send this form to the named supervisor, who will then complete Section C, "Supervisor Certification."

Employer			
Address			
City	State	Zip Code	Telephone Number
Position			
Period of Employment(check one)			
<input type="checkbox"/> Full Time	From	To	
<input type="checkbox"/> Part Time	From	To	
Name of Supervisor			
Firm (if different from above)			
Address			
City	State	Zip Code	Telephone Number

I certify under penalty of perjury to the truth and accuracy of all statements, answers, and representations made in this Certificate of Experience, including all supplementary statements.

Signature of Applicant	Date
------------------------	------

C. Verification by Supervisor (continued). Supervisors (or the person who can verify information) must have a current CPA license or a license that was current during the stated time period.

SUPERVISOR VERIFICATION

I certify under penalty of perjury to the truth and accuracy of the information provided herein and that during the period from \_\_\_\_\_ to \_\_\_\_\_, the applicant worked for me, my firm, or the firm which is or was my employer. By signing this form, I authorize CredentialNet, a service of the National Association of State Boards of Accountancy, to verify my certificate/license with the appropriate board(s) of accountancy.

Name \_\_\_\_\_ Position or Title \_\_\_\_\_

Current Firm Name \_\_\_\_\_

Current Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone Number \_\_\_\_\_

CPA Certificate Number \_\_\_\_\_ Issuing Jurisdiction \_\_\_\_\_

Expires On \_\_\_\_\_

Signature of Supervisor

Date

# CredentialNet Services for Interstate Practice - Attachment no. 3

Evaluation Type / Name	Requirements/Supporting Documentation	Participating Board/s	Fee	Documentation Provided to Boards
<b>Code 2 - Credentials Verification for New York</b> (NASBA assists CPAs to apply for a reciprocal license with the New York State Board)	<ol style="list-style-type: none"> <li><b>License History</b> - Authorization for Interstate Exchange forms completed and stamped by each Board where applicant holds a license</li> <li><b>Education</b> - Official transcripts from each school attended by applicant</li> <li><b>Work Experience</b> - Certificate of Experience forms signed by verifying CPA</li> </ol>	New York	\$100.00	<b>CPA Portfolio</b> (a summary of all credentials) and copies of all supporting documents
<b>Code 3 - Individual Substantial Equivalency Evaluation</b> , to be used in filing for a reciprocal license or notification	<ol style="list-style-type: none"> <li><b>License History</b> shows good moral character by lacking a history of dishonest or felonious acts - Authorization for Interstate Exchange forms completed and stamped by each Board where applicant holds a license</li> <li><b>Education</b> 150 hours required if CPA exam passed after 1/1/01 - Official transcripts from each school attended by applicant</li> <li><b>One Year Work Experience</b> - Certificate of Experience forms signed by verifying CPA</li> <li><b>Uniform CPA Examination</b> passed with conditioning beginning once two sections are passed and all four sections must be passed within 6 attempts; minimum failing grade of 50; all unpassed sections taken at one sitting - Interstate Exchange forms</li> </ol>	Arkansas (required) Kansas New Mexico North Dakota New Mexico Oklahoma Oregon	\$100.00	<b>CPA Portfolio</b> (a summary of all credentials)
<b>Code 3A - Notification of Intent to Practice in Tennessee and Tennessee Substantial Equivalency Evaluation</b>	<ol style="list-style-type: none"> <li><b>License History</b> shows good moral character by lacking a history of dishonest or felonious acts - Authorization for Interstate Exchange forms completed and stamped by each Board where applicant holds a license</li> <li><b>Education</b> 150 hours required if CPA exam passed after 1/1/01 - Official transcripts from each school attended by applicant</li> <li><b>One Year Work Experience</b> - Certificate of Experience forms signed by verifying CPA</li> <li><b>Uniform CPA Examination</b> passed with conditioning beginning once two sections are passed and all four sections must be passed within 6 attempts; minimum failing grade of 50; all unpassed sections taken at one sitting - Interstate Exchange forms</li> <li><b>Ethics Examination</b> must be passed such as the exam given by the American Institute of Certified Public Accountants (AICPA).</li> </ol>	Tennessee	\$100.00	<b>CPA Portfolio</b> (a summary of all credentials) and candidate is included in a monthly report to Tennessee - CNET processes the renewals of these notifications which must be completed every two years
<b>Code 4A - Notification of Intent to Practice in Tennessee</b>	<ol style="list-style-type: none"> <li><b>License History</b> - Authorization for Interstate Exchange forms completed and stamped by each Board where applicant holds a license</li> </ol>	Tennessee	\$35.00	<b>Monthly Report</b> is issued to TN Board with information on all CPAs who have provided Notification of Intent to Practice in TN - CNET processes the renewals of these notifications which must be completed every two years

**Colorado Reciprocity - CPA Licensure Application for Reciprocity**

1. License History must include passing CPA exam grades and must lack evidence of any disciplinary actions issued by previous Boards - Authorization for Interstate Exchange of Examination and Licensure Information forms completed and stamped by each Board where applicant holds a license
2. Education - A Bachelor's Degree including 24 semester hours in Accounting, 3 semester hours in Audit and 21 semester hours in General Business credits (not to exceed 6 semester hours in any one subject) - Official transcripts from each school attended by applicant or official foreign evaluation report
3. Work Experience must include one year and 1800 hours of public accounting experience - Certificate of Experience signed by supervising CPA whose license was active during the indicate dperiod of work experience
4. Verification of Supervisor's License must be obtained from the appropriate Board - Employer's License Verification form completed by the State Board including the Board's official stamp
5. AICPA Ethics Exam must be completed and passed with a minimum score of 90% - Certificate of Completion from the AICPA and official score sheet issued directly from the AICPA.

Colorado

\$165.00

Application file for each applicant including all supporting original documentation.

**Other Evaluation Services offered by CredentialNet for Initial Licensing - Attachment no. 4**

Evaluation Type / Name	Requirements/Supporting Documentation	Participating Board/s	Fee	Documentation Provided to Boards
<b>Colorado Exam - CPA Licensure Application for Applicants who passed the Uniform CPA Exam in Colorado</b>	<ol style="list-style-type: none"> <li>1. Uniform CPA Examination passed in the state of Colorado - Score sheet provided by CPA Examination Services</li> <li>2. Education - A Bachelor's Degree including 24 semester hours in Accounting, 3 semester hours in Audit and 21 semester hours in General Business credits (not to exceed 6 semester hours in any one subject) - Official transcripts from each school attended by applicant or official foreign evaluation report</li> <li>3. Work Experience must include one year and 1800 hours of public accounting experience - Certificate of Experience signed by supervising CPA whose license was active during the indicate dperiod of work experience</li> <li>4. Verification of Supervisor's License must be obtained from the appropriate Board - Employer's License Verification form completed by the State Board including the Board's official stamp</li> <li>5. AICPA Ethics Exam must be completed and passed with a minimum score of 90% - Certificate of Completion from the AICPA and official score sheet issued directly from the AICPA</li> </ol>	Colorado	\$85.00	Application file for each applicant including all supporting original documentation
<b>Colorado Transfer of Grades - CPA Licensure Application for Applicants Who Passed the Exam in a State Other Than Colorado</b>	<ol style="list-style-type: none"> <li>1. Uniform CPA Examination must be passed - Authorization for Interstate Exchange of Examination and Licensure Information form completed and stamped by the Board where applicant passed the exam</li> <li>2. Education - A Bachelor's Degree including 24 semester hours in Accounting, 3 semester hours in Audit and 21 semester hours in General Business (not to exceed 6 semester hours in any one subject) - Official transcripts from each school attended by applicant or official foreign evaluation report</li> <li>3. Work Experience must include one year and 1800 hours of public accounting experience - Certificate of Experience signed by supervising CRA whose license was active during the indicate dperiod of work experience</li> <li>4. Verification of Supervisor's License must be obtained from the appropriate Board - Employer's License Verification form completed by the State Board including the Board's official stamp</li> <li>5. AICPA Ethics Exam must be completed and passed with a minimum score of 90% - Certificate of Completion from the AICPA and official score sheet issued directly from the AICPA</li> </ol>	Colorado	\$165.00	Application file for each applicant including all supporting original documentation

**Colorado Firm Registration - Initial  
Registration of Professional  
Corporations, Limited Liability  
Companies and Partnerships Composed  
of Certified Public Accountants**

1. Firm history, ownership and organization must comply with all the sections of Colorado Statute 12-2-117 - Registration Application

2. Organizing Documents must include the Board's four required Provisions of Statute 12-2-117 and must be filed with the Colorado Secretary of State - Statement of Registration including copies of the firm's organizing documents stamped by the Colorado Secretary of State

**\$150.00** Application fee . . . . .  
applicant including supporting  
original documentation

**CALIFORNIA BOARD OF ACCOUNTANCY**

2000 EVERGREEN STREET, SUITE 250  
SACRAMENTO, CA 95815-3832  
TELEPHONE: (916) 263-3680  
FACSIMILE: (916) 263-3675  
WEB ADDRESS: <http://www.dca.ca.gov/cba>

Attachment 4



UAA TASK FORCE  
MINUTES OF THE MEETING

January 26, 2004  
California Board of Accountancy Office  
2000 Evergreen Street  
Sacramento, CA 95815

**CALL TO ORDER**

Renata Sos, Chair, called the meeting of the UAA (Uniform Accountancy Act) Task Force to Order at 10:35 a.m. and welcomed the participants.

Present:

Renata Sos, Chair  
Gail Hillebrand  
Thomas Iino  
Harold Schultz  
David Walton

Staff and Legal Counsel

Mary Crocker, Assistant Executive Officer  
Patti Franz, Licensing Manager  
Michael Granen, Deputy Attorney General  
Aronna Granick, Legislation/Regulations Coordinator  
Bob Miller, Legal Counsel  
Greg Newington, Chief, Enforcement Program  
Carol Sigmann, Executive Officer

Other Participants

Mike Duffey, Ernst and Young LLP  
Katherine Demos, Department of Consumer Affairs  
Bill Gage, Senate Business and Professions Committee  
Ann Nelson, California Society of Accounting and Tax Professionals  
Wendy Perez, Board Member  
Richard Robinson, Robinson & Associates  
Ian Thomas, Board President  
Jeannie Tindel, California Society of Certified Public Accountants

the Board had adopted a policy under which firms could not be disciplined except for specific general management failures. The Board would need to revise this policy if this proposal were adopted. The task force also discussed the need for statutory provisions that would give the Board jurisdiction over both the firm and the individual practicing under the notification.

Participants also discussed how the fees could be established. Ms. Tindel and Mr. Duffey volunteered to develop a proposal. Ms. Hillebrand noted that Board staff would also need to be involved. Ms. Crocker indicated that the statute could establish a ceiling, and the actual fee could be established by a regulation based on data collected by the Board.

**After discussion, it was the consensus of the Task Force that it would be desirable to further consider and develop the blanket notification proposal.** Ms. Sos and Ms. Hillebrand volunteered to be a sub-task force to work on this project. Mrs. Granen would serve as legal counsel, and Mr. Duffey and Ms. Tindel would also participate.

The Task Force then considered the draft individual notification form that had been revised by Ms. Sos (Attachment 2). Ms. Sos indicated that her intent was to make the form simple in order to encourage people to submit it. Other Task Force members concurred with Ms. Sos regarding the desirability of keeping the form simple. Participants suggested minor revisions to improve the readability of the form, including deleting items 3 and 14 in the section "Qualification Requirements."

During the discussion, Ms. Granick reported on staff research regarding NASBA's method of determining substantial equivalency for individuals (see Attachments 3 and 4). She noted that NASBA's application review process appeared to be quite thorough. She added that it does not require that the licensee have 150 hours of education at the time of licensure as long as the requirement is met for the substantial equivalency evaluation. She noted that this approach would make it easier for California's "Pathway 1" licensees to be deemed substantially equivalent. Ms. Sos observed that even though NASBA's procedure has been in place since May 1999, NASBA had received only 160 applications for an individual substantial equivalency evaluation. Of the 160 licensees who had applied, 152 had been determined to be substantially equivalent.

Also during the discussion, Ms. Sos commented that at the last meeting the Task Force had voted to require that notification would have to be submitted to the Board on or before the time the work begins. However, at the NASBA Pacific Regional Communications Forum other states indicated that they were considering a grace period. Ms. Tindel indicated she believed that a 30-day grace period was appropriate. Ms. Hillebrand noted that the Task Force had extensively discussed the matter at its previous meeting. After discussion, it was moved by Ms. Sos and seconded by Mr. Schultz to reconsider the Task Force's decision. The motion did not carry.

## Memorandum

Practice Privilege TF Agenda Item VII.A-B.  
July 15, 2004

Board Agenda Item VIII.F.8.  
July 16, 2004

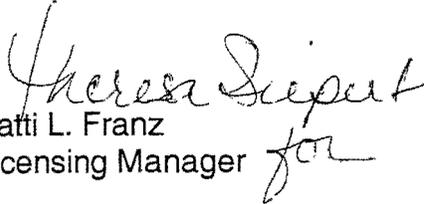
To : Renata M. Sos, Chair  
Practice Privilege Task Force Members

Date : July 6, 2004

Telephone : (916) 561-1740

Facsimile : (916) 263-3676

E-mail : pfranz@cba.ca.gov

From : Patti L. Franz  
Licensing Manager 

Subject : Notification Payment Issues Related to Practice Privilege

Attached for review is a high-level flow chart diagramming the process envisioned by staff for the processing of notification forms for California practice privilege. This flow chart assumes the following:

- The *Notification and Agreement to Conditions for the Privilege to Practice Public Accounting in California* form will be available on the Board's Web site. The individual will have the option of completing the form on-line or downloading the form from the Web site.
- If the form is completed on-line, information indicating the individual is a practice privilege holder will be available for immediate viewing on the Board's Web site, unless the individual answers affirmatively to any of the disqualifying questions.
- For those who decide to download and mail the form to the Board, staff will enter the information upon receipt, unless the individual answers affirmatively to any of the disqualifying questions. Once the information is input the information will be immediately available for viewing on the Board's Web site.
- The individual has 30-days from the date of giving notice to submit payment.

While discussing the process, the following questions that have policy implications were identified by staff:

- 1) *If the individual does not pay the fee or the check is dishonored, should the submission of subsequent notifications be limited or prohibited?*

This issue was identified because of the possibility of situations such as the following scenario:

- An out-of-state licensee submits a notification for practice privilege in California on January 3, 2006. At the conclusion of the 30-day payment period, the individual does not submit the required \$100 payment. However, the licensee submits a subsequent notification for another practice privilege on April 1, 2006.

Renata Sos, Chair  
Practice Privilege Task Force Members  
July 6, 2004  
Page 2

By law, the requirements for holding a practice privilege will not be met if the individual fails to submit the payment. If the Task Force concludes a limitation on future notice submissions is appropriate, it needs to address whether this disqualifies the individual from eligibility for future practice privileges. If so, the Task Force will need to discuss the process for and length of disqualification.

If the Task Force decides there should be a limitation on subsequent notice submissions, regulatory language would need to be drafted to address this policy decision.

*2) If an individual submits a notice and subsequently finds the California practice privilege will not be needed, may the notification be withdrawn prior to the expiration of the 30-day payment period? If so, will payment be waived if not received or, if received, refunded?*

This issue was identified by staff because of the possibility of a situation such as the following scenario:

- An individual submits a notification to the Board on June 1, 2006. On June 22, 2006, this person is notified his or her services are no longer needed in California.

If the Task Force concludes there should be an allowance for an individual to formally withdraw the notification it needs to address if there should be conditions to this withdrawal. For example, should withdrawal be limited to people who do not come to this state at all, or can a person who enters California but never practices public accountancy be eligible for withdrawal? Should there be a limitation to the number of withdrawals, and should an explanation for withdrawal be required?

Again, regulatory language would be necessary to address the policy decision of the Task Force on this issue.

I will be at the meeting to answer any questions the Task Force members may have.

Attachment

# Practice Privilege Notification Workflow

