

**CALIFORNIA BOARD OF ACCOUNTANCY**

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DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY

FINAL

MINUTES OF THE
NOVEMBER 20-21, 2008
BOARD MEETING

The Westin LAX
 5400 West Century Boulevard
 Los Angeles, CA 90045
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I. Call to Order.

President Donald Driftmier called the meeting to order at 2:00 p.m. on Thursday, November 20, 2008, at the Westin LAX Hotel and the Board heard Agenda Items VI.A. – D. and V.B. – C. The meeting adjourned at 4:52 p.m. Mr. Driftmier reconvened the meeting to order at 8:32 a.m. on Friday, November 21, 2008, and the Board and Administrative Law Judge (ALJ) Daniel Juarez heard Agenda Item XII.A. The Board convened into closed session at 9:07 a.m. to deliberate Agenda Item XII.A. The meeting reconvened into open session at 9:20 a.m., and the Board and ALJ Daniel Juarez heard Agenda Item XII.B. The Board again convened into closed session at 9:46 a.m. to deliberate Agenda Item XII.B. and also to consider Agenda Items XII.C-F. The meeting reconvened into open session at 10:30 a.m. and adjourned at 2:27 p.m.

Board MembersNovember 20, 2008

Donald Driftmier, President	2:00 p.m. to 4:52 p.m.
Robert Petersen, Vice President	2:00 p.m. to 4:52 p.m.
Rudy Bermúdez, Secretary-Treasurer	2:00 p.m. to 4:52 p.m.
Sally Anderson	2:00 p.m. to 4:52 p.m.
Angela Chi	2:00 p.m. to 4:52 p.m.
Herschel Elkins	2:00 p.m. to 4:52 p.m.
Lorraine Hariton	2:00 p.m. to 4:52 p.m.
Louise Kirkbride	Absent
Leslie LaManna	2:00 p.m. to 4:52 p.m.
Bill MacAloney	2:40 p.m. to 4:52 p.m.
Marshal Oldman	2:00 p.m. to 4:52 p.m.
Manuel Ramirez	2:00 p.m. to 4:52 p.m.

David Swartz	2:00 p.m. to 4:52 p.m.
Lenora Taylor	2:00 p.m. to 4:52 p.m.
Stuart Waldman	Absent

Board Members

November 21, 2008

Donald Driftmier, President	8:32 a.m. to 2:27 p.m.
Robert Petersen, Vice President	8:32 a.m. to 2:27 p.m.
Rudy Bermúdez, Secretary-Treasurer	10:40 a.m. to 2:27 p.m.
Sally Anderson	8:32 a.m. to 2:27 p.m.
Angela Chi	8:32 a.m. to 2:27 p.m.
Herschel Elkins	8:32 a.m. to 2:27 p.m.
Lorraine Hariton	8:32 a.m. to 2:27 p.m.
Louise Kirkbride	8:32 a.m. to 2:27 p.m.
Leslie LaManna	8:32 a.m. to 2:27 p.m.
Bill MacAloney	8:32 a.m. to 2:27 p.m.
Marshal Oldman	8:32 a.m. to 2:27 p.m.
Manuel Ramirez	8:32 a.m. to 2:27 p.m.
David Swartz	8:32 a.m. to 2:27 p.m.
Lenora Taylor	8:32 a.m. to 2:27 p.m.
Stuart Waldman	8:32 a.m. to 2:27 p.m.

Staff and Legal Counsel

Marisa Becerra-Garcia, Executive Analyst
Patti Bowers, Executive Officer
Gary Duke, Legal Counsel, Department of Consumer Affairs
Dominic Franzella, Renewal Coordinator
Scott Harris, Deputy Attorney General, Department of Justice
Lauren Hersh, Information and Planning Officer
Kris McCutchen, Licensing Manager
Gregory Newington, Chief, Enforcement Division
Deanne Pearce, Licensing Manager
Dan Rich, Assistant Executive Officer
Theresa Siefert, Manager, Administrative Division
Matthew Stanley, Legislative/Regulation Analyst
Liza Walker, Practice Privilege Coordinator

Committee Chairs and Members

Harish Khanna, Chair, Administrative Committee
Tracy Garone, Chair, Qualifications Committee

Other Participants

Bruce Allan, California Society of Certified Public Accountants (CalCPA)
Ken Bishop, National Association of State Boards of Accountancy (NASBA)
Mike Duffy, Ernst & Young, LLP

Stephen Friedman, Society of California Accountants (SCA)
Ed Howard, Center for Public Interest Law (CPIL)
Hon. Daniel Juarez, Administrative Law Judge
Tracy Logan, CPIL
Carl Olson
Scott Reid, Chief Deputy Director, Department of Consumer Affairs (DCA)
Richard Robinson, E&Y, DT, PWC, KPMG, GT
Gregory Santiago, Legislative Analyst, DCA
Bradley Schmidt
Hal Schultz, CalCPA
Jeannie Tindel, CalCPA
David B. Tolkan, SCA
Paul Wilkinson
Pam Wortman, Fiscal Officer, DCA

II. Board Minutes.

The draft Board minutes of the September 19, 2008, Board meeting were adopted on the Consent Agenda (See Agenda Item XIII.C.).

III. Report of the President.

A. Delegation of Authority: Responsibilities, Duties and Functions of Executive Officer.

It was moved by Mr. MacAloney, seconded by Mr. Swartz, and unanimously carried by those present to approve the Delegation of Authority for Ms. Patti Bowers (see Attachment 1). Mr. Bermúdez was temporarily absent for this vote.

B. Proposed Resolutions for Retiring Board Members, Mr. Bill MacAloney and Dr. Richard Charney.

Mr. Driftmier read the proposed resolutions for retiring Board members, Mr. Bill MacAloney and Dr. Richard Charney, and thanked them for their service.

See Agenda Item IV.A. for the motion on these resolutions.

Mr. Driftmier further stated that a dinner honoring Dr. Charney will be held in San Francisco in January 2009.

C. Introduction of New Board Member, Mr. Herschel Elkins.

Mr. Driftmier formally introduced Mr. Elkins to the Board. Mr. Elkins served as an Attorney in the California Attorney General's Office for 52 years, and recently retired as a Special Assistant Attorney General for Consumer Policy, Coordination and Development. Mr. Elkins also

previously served as the Statewide Head of the Attorney General's Consumer Law Section, he was the first Chair of the California State Bar's Consumer Finance Committee, and is past Chair of the California District Attorney's Association Consumer Protection Committee. Mr. Elkins also has chaired task forces and investigative committees on consumer protection matters, drafted many of California's consumer protection statutes, and is the author of the Consumer Protection & Civil Injunctions Points and Authorities Manual, now in its 21st edition.

Mr. Elkins also graduated from UCLA with a Bachelor's Degree in Political Science, earned his law degree in 1956, was named Public Lawyer of the Year in 2002 by the State Bar of California, and Mr. Driftmier stated that Mr. Elkins would be a great addition to the Board.

IV. Report of the Vice-President.

- A. Proposed Resolutions for Non-Board Members of the Ethics Education and Licensing Frequency (EELF) Task Force: Dr. Karen Dill Bowerman, Ms. Yordanos Dumez, and Ms. Kay Phelan.

It was moved by Mr. Oldman, seconded by Mr. Ramirez, and unanimously carried by those present to approve the resolutions for Mr. MacAloney, Dr. Charney, Ms. Dill Bowerman, Ms. Dumez, and Ms. Phelan. Mr. Bermúdez was temporarily absent.

- B. Extension of Qualifications Committee (QC) Chair Tracy Garone's Term.

It was moved by Mr. Swartz, seconded by Ms. Anderson, and unanimously carried by those present to extend Ms. Tracy Garone's term as Chair of the QC. Ms. Chi, Ms. Taylor, Ms. LaManna, Mr. Petersen, Mr. Bermúdez, Mr. Ramirez, and Mr. Oldman were temporarily absent.

- C. Proposed Resolution for Retiring QC Member Richard Kikuchi.

It was moved by Mr. Oldman, seconded by Mr. Ramirez, and unanimously carried by those present to approve the resolution for Mr. Kikuchi. Mr. Bermúdez was temporarily absent.

- D. Administrative Committee (AC) and QC Recruitment.

Mr. Driftmier stated that the QC currently has three vacancies, and the AC has one, and he asked the public for assistance in recruiting for these vacancies.

V. Report of the Secretary-Treasurer.

A. FY 2008/09 First Quarter Financial Report.

Mr. Bermúdez reported that the Board currently holds a 10.2 month reserve, which constitutes a \$1 – \$1.5 million excess over the required minimum (**see Attachment 2**).

It was moved by Mr. Oldman, seconded by Mr. Ramirez, and unanimously carried to accept the report of the Secretary-Treasurer.

B. Continuation of the Financial Discussion from the Board Retreat.

Mr. Rich and Ms. Wortman presented an overview of the state budget process, which was a continuation from the October 2008 Board retreat. They provided a synopsis of the reserve versus the budget, the concept of reversion to the accountancy fund, provided a reserve projection, and highlighted issues pertaining to revenue projections. They further discussed the issue of expenditures being less than budgeted levels and discussed options as to how the Board can balance revenues and expenditures to create a more stable reserve.

C. License Renewal Fee Reduction Analysis.

Mr. Rich provided an analysis of the issues pertaining to the reduction of the license renewal fee (**see Attachment 3**). He further outlined three options the Board may wish to adopt. The first would be to reduce the biennial renewal fee for one year. The second would be to reduce the biennial renewal fee for two years, and the third would be to reduce the biennial renewal fee for four years. Mr. Rich recommended that should the Board desire to reduce fees, that they should be reduced by no more than \$50 for a two-year period.

Mr. Elkins stated his reluctance to reduce fees.

It was moved by Ms. LaManna, and seconded by Mr. Ramirez, to reduce the biennial renewal fee by \$50 for a two-year period. Ms. LaManna, Mr. Ramirez, Mr. Swartz, Mr. MacAloney, and Mr. Driftmier voted yes. Ms. Chi, Ms. Anderson, Mr. Bermúdez, Mr. Petersen, Mr. Oldman, Ms. Hariton, Mr. Elkins, and Ms. Taylor voted no. Ms. Kirkbride and Mr. Waldman were absent. The motion failed.

Mr. Bermúdez suggested creating a program using the \$1.2 million reserve surplus to provide outreach to consumers and licensees. He further stated that should there be a need for the \$1.2 million, the program may be terminated to allow the Board to use that money to fund the Enforcement Program.

Mr. Ramirez suggested creating a task force to study various alternatives.

Mr. Petersen stated his wish to defer this item to the January 2009 Board meeting to allow for further study.

D. Consideration of the Frequency of Financial Statement Report.

There was discussion on the frequency of receiving financial statements reports and which would prove most beneficial: receiving a report at each Board meeting, or receiving quarterly reports. Mr. Rich stated that it would prove more beneficial to continue receiving quarterly reports (**see Attachment 4**). Ms. Kirkbride agreed, while Mr. Driftmier stated his desire to receive reports at each meeting. After discussion, the Board reached consensus to have a standing agenda item to report any significant financial issues that may arise between the current quarterly reports.

It was moved by Mr. Swartz, seconded by Ms. Taylor, and unanimously carried to continue to receive quarterly reports, yet reserve a spot on each meeting's agenda to be able to discuss any future budgetary issues that arise.

VI. Report of the Executive Officer.

A. Update on Board Staffing.

Ms. Bowers reported that there are presently nine vacancies. The Administrative Division has two Office Technician and one Associate Information Systems Analyst vacancies. The Initial Licensing Unit has two Office Technician vacancies, and the Enforcement Division has one Supervising Investigative Certified Public Accountant, two Investigative Certified Public Accountant, and one Associate Governmental Program Analyst vacancies. Ms. Bowers further reported that the Board has received tentative approval from DCA to appoint Ms. Deanne Pearce as the acting Chief of the Licensing Division.

B. Report of Existing Projects and Discussion and Prioritization of Newly Identified Action Items.

Ms. Bowers described a process for prioritizing new Board requests. At the committee level, Board staff will write new requests on a flip chart. Each item will be designated either A (Critical and Time-Sensitive), B (Highly Valuable), or C (Important – Address as Time Permits). Following each committee meeting, Board staff will confer regarding timeframes required for completion of projects so the Board can better prioritize requests, and to consolidate information for presentation at the Board meeting.

C. Encouragement of California Board Members to Maintain an Active Presence and Leadership Role with State, National and International Organizations.

Ms. Siepert outlined the assistance that staff will provide to facilitate Board member success in maintaining an active presence in the decision-making process related to the accountancy profession (**see Attachment 5**). This will encompass assisting Board members with completing committee nomination forms, travel requests, conference registrations, etc. Staff have identified a process to assist Board members in applying for membership on NASBA's various committees. Assisting Board members in the committee appointment process will also help staff identify and request out-of-state travel for committee attendance, as necessary. Ms. Siepert further reported that the Board has eight Board members/staff currently participating on various NASBA committees, and one Board member is participating on an American Institute of Certified Public Accountants (AICPA) committee. She indicated that additional information regarding participation on AICPA's committees will be presented at the Board's January 2009 meeting.

D. Update on Peer Review Outreach Campaign.

Ms. Hersh presented developments on the Peer Review Education and Outreach Campaign (**See Attachment 6**). She stated that she is working closely with Mr. Stanley to integrate the campaign with the Board's legislative timeline. Staff recommended that the Board approve the Peer Review Education and Outreach Campaign.

Ms. Hariton suggested highlighting the regulatory environment and how peer review contributes to that concept.

Mr. Petersen stated that the campaign brochures need additional specificity, highlighting that peer review is strictly designed for reviewing auditing and attest services.

Mr. Elkins stated that the campaign brochures suggest that peer review has already been made into law.

Mr. Driftmier requested Board members inform Ms. Hersh of any ideas or suggestions they may have to enhance the brochures and campaign.

E. Update on Press Release System.

Ms. Hersh reported that the press release system is presently moving forward through the approval process at DCA (**see Attachment 7**). The contract proposal for MediaHub is awaiting review by the Disabled Veteran Business Enterprise Advocate. Ms. Hersh further reported that she anticipates the MediaHub subscription to be in place before the end

of the year and fully operational in time for the Board's peer review outreach efforts.

F. Discussion of Fingerprinting and Conviction Disclosure Issues.

Ms. Hersh stated that on October 4, 2008, the *Los Angeles Times* published a story on the Board of Registered Nursing (BRN) and its failure to act against nurses' licenses until nurses were convicted of multiple crimes (**see Attachment 8**). In addition, the fingerprint requirement became effective in 1990, and did not require retroactive fingerprinting of existing licensees. This left approximately 146,000 nurse licensees who had no criminal record check with the state. Following the article, the BRN drafted emergency regulations that will require, as a condition of renewal, licensees who have not previously been fingerprinted to furnish fingerprints for the purpose of conducting criminal history record checks through the Department of Justice (DOJ). After the publication of the article, the *Los Angeles Times* submitted Public Records Act requests for enforcement information regarding all licensees in the health professions regulated by DCA. On November 2, 2008, the *Los Angeles Times* ran a story similar to the BRN article, this time focusing on licensees of the California Bureau of Vocational Nursing and Psychiatric Technicians who were convicted of felonies. In response to the news stories, DCA Director Carrie Lopez issued a statement announcing DCA's decision to seek statutory changes to allow all DCA boards and bureaus that require fingerprinting of new applicants to also require fingerprinting of existing licensees. Without a licensee having submitted fingerprints to the DOJ, there is no mechanism for the DOJ to transmit subsequent conviction information to the regulatory boards. Therefore, there are instances where a board may not be aware of a conviction, unless the licensee discloses the information at renewal, if required by the laws governing the profession, or by volunteering such information. DCA has submitted a legislative proposal to the State Consumer Services Agency and the Governor's Office. If the legislation is approved, the proposed operative date for this legislation is January 1, 2011.

Ms. Pearce reported that beginning in January 1998, applicants for licensure as a Certified Public Accountant in California were required to furnish fingerprints for purposes of conducting criminal history record checks through the Department of Justice. The law did not retroactively require licensees to furnish fingerprints. The present renewal form does not require conviction disclosure either; however, the Accountancy Act has required since 1997 that all licensees disclose conviction information, pursuant to the Reportable Events requirement identified in Section 5063, which specifically requires licensees to report felony convictions, or any crime related to the qualification, functions, or duties of a public accountant or certified public accountant within 30 days of the date the licensee has knowledge of the events.

She also stated that Board staff is working with DCA to amend renewal forms to include a question regarding disclosure of convictions. This action enables the Board to act quickly to close loopholes in consumer protection, while awaiting legislation that will enable the Board to enact new fingerprinting regulations. Staff estimates there will be approximately 25,000 active licensees, licensed prior to January 1998, who will be subject to the proposed fingerprinting requirement. Inactive licensees not previously fingerprinted will also be subject to the requirement prior to renewing or converting to active status. Staff estimates there are approximately 16,000 inactive licensees who were licensed prior to January 1998.

Ms. Pearce further stated that once the legislation has been approved by the State and Consumer Services Agency and the Governor's Office, the Board may wish to analyze issues such as fiscal impact, consumer benefit and implementation, and consider taking a position on the bill. She also stated that if the BRN's emergency regulations are approved by the Office of Administrative Law, the Board may wish to proceed with similar emergency regulations, and the regulatory language can be presented to the Board at the January 2009 meeting. Ms. Pearce stated that should the Board proceed with developing emergency regulations for public accountants and certified public accountants, the Board would also have the authority to determine if business entities will be required to have their non-licensed owners, officers, directors, shareholders, members, etc., to become fingerprinted. Presently, staff is monitoring the issue and when a bill is proposed, staff will add this to the Legislative Committee agenda, presumably for the March 2009 meeting.

G. Report on Licensing Division Activity.

Ms. Pearce reported that the Examination Unit has seen an increase in its processing timeframes due to the loss of temporary staff and an increase in applications received; however, the processing timeframe is projected to decrease with the Board now authorized to re-hire temporary staff, one who started in November and additional staff members who are due to start employment in December.

Ms. Pearce reported that the Initial Licensing Unit maintains a zero backlog and a processing timeframe of 30 days. She further stated that Ms. McCutchen will continue to monitor this timeframe.

Ms. Pearce reported that the Renewal Unit is modifying its statistical tracking system related to the worksheet review process. As of the end of October 2008, 13,399 applications were reviewed. For the period June through October 2008, 922 applications were deficient; 550 were rectified and are now in compliance, while 364 have outstanding deficiencies. The Renewal Unit lost its temporary staff person in August due to the state budget crisis; however, the ability to re-hire temporary

staff was reinstated, and the staff member began working with the Board in November 2008.

The Practice Privilege Unit issued three administrative suspension orders in September 2008 and nine in October 2008. Staff also sent 28 Notices of Intent to Suspend. These were a result of no response to the Board's two previous requests for completion of California Practice Privilege Holder Certification of Attest Experience form.

Ms. Pearce further noted that a detailed report regarding the customer service survey will be presented at the January 2009 Board meeting. She also reported that the certifications and public records request database is near completion. The certifications will be re-assigned to the Initial Licensing Unit.

It was moved by Ms. Anderson, seconded by Ms. Taylor, and unanimously carried to accept the report of the interim Licensing Chief.

VII. Report of the Enforcement Chief.

A. Report on Status of Enforcement Matters.

1. Activity and Status Reports.

Mr. Newington reported that as of November 3, 2008, the number of new complaints received for the current fiscal year was at 380, and the number of open licensed cases was at 244. He stated that for the current fiscal year, there had been 10 accusations filed and six citations issued. The number of formal disciplinary matters acted on by the Board was 11.

2. Major Case Summary.

Mr. Newington reported that there are three open matters in the major case category.

3. Report on Citations and Fines.

Mr. Newington reported that as of October 30, 2008, six fines had been issued for a total of \$6,750. The current receivable balance was \$34,552.

4. Reportable Conditions Data.

Mr. Newington reported that as of November 5, 2008, 73 reportable events had been received; 55 of those reportable events are restatements with the majority related to publicly traded entities.

It was moved by Mr. Swartz, seconded by Mr. Driftmier, and unanimously carried by those present to accept the report of the Enforcement Chief. Mr. Bermúdez was temporarily absent.

VIII. Regulations.

A. Update on Regulations (**see Attachment 9**).

IX. Committee and Task Force Reports.

A. Administrative Committee.

There was no report on this agenda item.

B. CPA Qualifications Committee.

1. Draft Minutes of the July 9, 2008, QC Meeting.

The draft minutes of the July 9, 2008, QC meeting were adopted on the Consent Agenda (see Agenda Item XIII.C.).

2. Report of the October 22, 2008, QC Meeting.

Ms. Garone stated that the QC met on October 22, 2008. She reported that 14 personal appearances were held, with five appearances approved and four appearances non-approved. She also reported that three Section 69 appearances were approved, while two were not.

Ms. Garone further reported that the QC approved the July 9, 2008 meeting minutes, as well as the resolutions for Mr. Richard Kikuchi, Ms. Janet Rosman and Mr. Michael Williams. She stated that the QC has three vacant positions, and she has not yet received any résumés from interested parties. Ms. Garone stated that the 2009/2010 meeting dates were approved and that Ms. Anderson appeared at the meeting to update the committee on peer review and the activities of the EELF Task Force. Ms. Garone also reported that the Licensing Applicant Handbook, as well as the QC Manual have been updated and reviewed, and that significant revisions are still needed. She concluded her report by stating that Mr. Charles Hester and Mr. Gary O'Krent will participate in a sub-committee to review the attest language, which she will report to the Board at its January 15-16, 2009 meeting.

It was moved by Ms. Taylor, seconded by Ms. Hariton, and unanimously carried to accept the report of the QC Chair, Ms. Tracy Garone.

C. Committee on Professional Conduct (CPC).

1. Draft Minutes of the September 18, 2008, CPC Meeting.

The draft minutes of the September 18, 2008, CPC meeting were adopted on the Consent Agenda (see Agenda Item XIII.C.).

D. Legislative Committee.

1. Report of the November 20, 2008, Legislative Committee Meeting.

Ms. Hariton reported that the Legislative Committee met to discuss and take action on the following agenda items.

2. Discussion and Prioritization of Newly Identified Action Items.

Ms. Bowers described a process for prioritizing new Board requests.

Please see Agenda Item VI.B. for details regarding this process.

3. Consideration of Possible Legislative Language for 2009.

- a. Peer Review.

Mr. Petersen recommended that the word “provider” be added into §5076.1(b) in the two instances following “peer review program” for the sake of clarity. He also recommended that the Peer Review Oversight Committee (PROC) term in §5076.1(c) be changed from one year to two years to maintain consistency with the AC and QC.

Mr. Stanley reported that the timeframe for introduction of this measure will follow the plan that was laid out during the Board’s October 2008 retreat.

The Legislative Committee recommended that the Board sponsor the Peer Review legislation using staff’s proposed draft language with the changes recommended by Mr. Petersen (**see Attachment 10**).

See Agenda Item IX.D.3.e. for action on this item.

- b. Restatements.

Mr. Stanley presented draft statutory language to eliminate the restatement reporting requirement (**see Attachment 11**).

Mr. Stanley pointed out that the bill would receive significant

opposition that may hinder the Board's peer review legislation and recommended that restatements legislation not be pursued at this time.

The Legislative Committee recommended that the Board adopt staff's recommendation.

See Agenda Item IX.D.3.e. for action on this item.

c. Investigative Certified Public Accountant (ICPA) Series Salary Adjustment.

Mr. Stanley presented draft statutory language to increase the pay of the ICPA series (**see Attachment 12**). He also presented three options. The first was to sponsor a bill with the proposed language. The second was to pursue a solution during budget negotiations, and the third was to pursue both methods. Ms. Bowers indicated that Board staff is pursuing a "zero-based" approach to re-examining the entire Enforcement Division. She asked for time to perform the study.

The Legislative Committee recommended that the Board adopt Option 3 as recommended by staff.

Mr. Bermúdez stated the necessity of working collaboratively with state civil service unions, and that a lack of involvement may be an impediment to introducing other pieces of related legislation. Mr. Stanley suggested conferring with these unions before the consultant contracts are approved, explain the situation and ask for union support in the passage of this bill. Mr. Santiago stated that DCA will work with the Board as best it can.

Mr. Howard from CPIL stated that the Board had not presented a "business case" for the ICPA salary increase and the need to staff the Enforcement Program with licensees. He stated that it may prove beneficial for the Board to establish a business case for this bill by drafting some sort of document outlining the need. He further encouraged the Board to coordinate with consumer groups and adopt the policies used by other boards within DCA. He stated that this could be pursued legislatively without having to pass a bill. He stated that the Board may vote to pursue legislation without formally sponsoring it, which would avoid the need to make definite binary decisions. He further stated that the Board would receive well-rounded support due to the quest for consumer protection.

Ms. Kirkbride stated that the Board may face the risk of losing its credibility by moving this bill forward. She encouraged Ms.

Bowers to proceed with the “zero-based” approach and that the Board should await the results.

Mr. Stanley stated that language can be drafted by the Legislative Counsel by January 2009, and the Board may wish to hold onto the draft language through the end of February 2009, leaving the option open to entertain further discussion at the January 2009 Board meeting.

See Agenda Item IX.D.3.e. for action on this item.

d. Elimination of Pathway 1.

Mr. Stanley presented three options related to the elimination of Pathway 1 for licensure (**see Attachment 13**). The first option would be to introduce the study bill language. The second would be to not sponsor legislation, but to have the Board re-examine all of its policy decisions. The third option would be to not pursue legislation at this time.

The Legislative Committee recommended that the Board adopt Option 3 as recommended by staff.

See Agenda Item IX.D.3.e. for action on this item.

e. Mobility.

Mr. Stanley presented draft statutory language to implement mobility in California. He also presented alternative language that would create a study bill to allow an outside entity to examine the topic of mobility and report its findings and recommendations to the Legislature. He also outlined three options. The first option would be to introduce the study bill language. The second would be to not sponsor legislation, but to have the Board re-examine all of its policy decisions. The third option would be to not pursue legislation at this time.

The Legislative Committee recommended that the Board adopt Option 3 to not pursue legislation at this time.

It was moved by Ms. Hariton, seconded by Mr. Elkins, and carried with two abstentions to approve the Legislative Committee’s recommendations, as well as direct Ms. Bowers to collaborate with DCA to determine an appropriate avenue to work with labor unions in order to highlight the issues surrounding the ICPA salary increase legislation and to garner support for this legislation. Ms. Kirkbride and Ms. Hariton abstained from this vote.

E. Enforcement Program Oversight Committee (EPOC).

There was no report on this agenda item.

F. Ethics Education and Licensing Frequency Task Force.

1. Draft Minutes of the September 18, 2008, EELF Task Force Meeting.

The draft minutes of the September 18, EELF Task Force meeting were adopted on the Consent Agenda (see Agenda Item XIII.C.).

2. Report on the November 20, 2008, EELF Task Force Meeting.

Ms. Anderson reported that the EELF Task Force met to discuss and take action on the following agenda items.

3. Discussion of Automated Continuing Education (CE) Tracking.

Ms. Anderson reported that staff recommended that further consideration related to automated CE tracking be delayed until after the implementation of the CE Audit Program. Task Force members concurred with staff's recommendation and requested that consideration be given to minimize the cost impact on licensees.

The Task Force recommended that the Board accept staff's recommendation to delay further consideration of an automated CE tracking system, and provide a preliminary report to the Board on the effectiveness and needs of licensees and staff for the worksheet review process and CE Audit Program in July 2009, with a final report no later than November 2009.

4. Consideration of Regulatory Review Continuing Education Provider Approval Process.

Ms. Anderson reported that staff presented an issue paper related to an approval process for the newly established regulatory review continuing education course requirement. Staff offered two options for consideration related to an approval process. The first option pertained to a Board-developed regulatory review self-study CE course, and the second option pertained to Board approval of provider-specific regulatory review CE courses. Board staff recommended Option 2.

The Task Force recommended that the Board adopt staff's recommendation of Option 2 to establish Board approval of provider-specific regulatory review CE courses.

It was moved by Ms. Anderson, seconded by Mr. Ramirez, and unanimously carried by those present to accept staff's recommendation of Option 2. Mr. Bermúdez was temporarily absent.

5. Consideration of Regulatory Language Regarding Continuing Education.

Ms. Anderson reported that staff provided regulatory language related to the implementation of the biennial, four-hour ethics education requirement.

She also reported that Task Force members considered both the timeline for implementation of the proposed regulations and a plan of action for stakeholder outreach. Task Force members emphasized that prior to instituting the outreach plan and drafting the informational materials, consideration be given to the various nuances licensees may experience with the implementation of the new CE regulations.

6. Consideration of Committee Members Receiving Continuing Education Credit.

Ms. Anderson reported that the Task Force considered the present work performed by the AC and the QC. Members voiced concern that, although the work performed by the committees was extremely valuable, AC and QC members were not increasing their technical skills. Task Force members indicated partial CE credit could be considered with a limited number of hours claimed based on the valuable service the volunteer committee members provide.

The Task Force recommended that this agenda item be deferred for consideration before the entire Board.

The Board opted to take no action on this agenda item.

Ms. Anderson stated that the EELF Task Force's last meeting was held on November 20, 2008, and regulatory language pertaining to all Task Force recommendations will be presented at the Board's January 2009 meeting for deliberation.

Mr. Driftmier stated his appreciation to her for her leadership, as well as to all members of the Task Force for their hard work and dedication.

X. Appeals – Personal / Written.

A. Personal Appeals – None.

XI. Recommendations of CPA Qualifications Committee.

A. Personal / Written Appeals – None.

XII. Petitions, Stipulations, and Proposed Decisions [Closed Session Government Code Section 11126(c)(3)] *Petition Hearings are Public Before the Board with a Subsequent Closed Session.

A. Bradley James Schmidt – Petition to Reinstate Revoked Certificate.

The Board and ALJ Daniel Juarez heard the petition. The ALJ will prepare the decision.

B. Paul Robert Wilkinson – Petition to Reinstate Revoked Certificate.

The Board and ALJ Daniel Juarez heard the petition. The ALJ will prepare the decision.

C. Doug Hanson – Stipulated Settlement.

The Stipulation in the matter of the Accusation filed against Doug Hanson was adopted.

D. Rev Emerson Vandervort – Default Decision.

The Decision in the matter of the Accusation filed against Rev Emerson Vandervort was adopted.

E. Eva Tsai and E-Fang Accountancy Corporation – Stipulated Settlement.

The Stipulation in the matter of the Accusation filed against Eva Tsai and E-Fang Accountancy Corporation was adopted.

F. Armando C. Ibarra, Armando Ibarra, and Armando C. Ibarra CPA, A Professional Corporation – Stipulated Settlement.

The Stipulation in the matter of the Accusation filed against Armando C. Ibarra, Armando Ibarra, and Armando C. Ibarra CPA, A Professional Corporation was adopted.

~~G. Gary Porter and Porter & Company – Stipulated Settlement.~~ – Deferred.

This agenda item was deferred.

XIII. Other Business.

A. American Institute of Certified Public Accountants.

1. Update on AICPA State Board Committee.

Mr. Driftmier stated that the examination will be changed to include International Financial Reporting Standards.

- B. National Association of State Boards of Accountancy.

1. Update on NASBA Committees.

- a. Compliance Assurance Committee.

There was no report on this agenda item.

- b. Peer Review Committee.

Mr. Petersen stated that he attended the annual meeting in Boston on October 26, 2008, and he is enthusiastic that the Board is making much progress with its peer review program.

- c. Accountancy Licensee Database Task Force.

There was no report on this agenda item.

- d. Legislative Support Committee.

There was no report on this agenda item.

2. Report of the 101st Annual NASBA Meeting.

Mr. Petersen stated that he attended this meeting in Boston on October 26, 2008. Ms. Anderson reported her attendance as well, and stated that it was a good meeting.

3. Proposed Response to NASBA's Discussion Paper Related to 120/150 Examination Requirements.

Ms. McCutchen reported that NASBA issued a discussion paper related to 120/150 semester hours required to sit for the CPA examination (**see Attachment 14**). The purpose of NASBA's discussion paper was to explore the educational requirements for sitting for the CPA examination and address the surrounding issues. NASBA questioned whether sitting for the examination with a minimum of 120 semester hours and subsequently fulfilling the 150 hours prior to licensure poses consumer protection issues. Presently, 28 states allow candidates to sit for the examination with 120 hours, including California. NASBA conducted its own research and found no detriment to public interest. NASBA asked state boards to provide empirical evidence supporting or opposing their conclusions.

Ms. McCutchen informed the Board that staff have drafted a proposed response to NASBA's request, which indicated the belief that there is no detriment to public interest. She further stated the Board has never received any statistical evidence that allowing candidates to sit with 120 hours resulted in consumer harm or other occurrences detrimental to the practice of public accountancy. Ms. McCutchen also stated that staff pointed out in the response that, although the Board has considered changing the requirements to sit for the exam to 150 hours, it was seen as a potential barrier to entering the profession. The response also asks NASBA to continue to update the Board with any other comments and/or opinions given by other state boards and she noted that the Board looks forward to receiving further reports and information from NASBA related to this issue.

It was moved by Mr. Swartz, seconded by Ms. Anderson, and unanimously carried by those present to adopt staff's recommended response to NASBA's discussion paper related to 120/150 hour examination requirements. Mr. Petersen was temporarily absent.

C. Consent Agenda.

It was moved by Mr. Bermúdez, seconded by Ms. Taylor, and unanimously carried to adopt the consent agenda (see Attachment 15).

D. Further Discussion of Cross-Border Practice.

There was no report on this agenda item.

E. Further Discussion of the Elimination of Pathway 1.

There was no report on this agenda item.

F. Reconsideration of Denial of Regulation Making on Licensees and their Client Restatements.

Mr. Duke stated that on September 19, 2008, the Board denied a petition submitted by Mr. Olson at the February 25, 2008 Board meeting, in which he requested the Board adopt a regulation requiring licensees to report all restatements for publicly-held companies, and that the Board keep all submitted restatements for public access. On October 29, 2008, Mr. Olson submitted a request for reconsideration **(see Attachment 16)**.

Mr. Newington stated that these materials are available through the Securities and Exchange Commission, and indicated that he did not see a necessity to reconsider the denial.

Mr. Waldman stated that, although he understood the maintenance of a “library” containing restatements may not be cost-effective, he did not object to the idea of licensees notifying the Board when a restatement is filed.

It was moved by Mr. Swartz, seconded by Ms. Anderson, and carried that the Board will not reconsider the denial of Mr. Olson’s petition on regulation making related to licensees’ client restatements. Mr. Waldman was opposed.

G. Officer Elections.

It was moved by Mr. Driftmier, seconded by Mr. MacAloney, and unanimously carried to elect Mr. Petersen as President of the California Board of Accountancy.

It was moved by Mr. MacAloney, seconded by Ms. Anderson, and unanimously carried to elect Mr. Ramirez as Vice President of the California Board of Accountancy.

It was moved by Ms. Chi, seconded by Mr. Swartz, and unanimously carried to elect Ms. Hariton as Secretary-Treasurer of the California Board of Accountancy.

H. Board Member Comments.

Mr. Driftmier expressed his gratitude to Board members, Ms. Bowers and Board staff for their contributions throughout his term of service.

Ms. Hariton expressed her appreciation of Mr. Driftmier.

Mr. Ramirez thanked Mr. Driftmier for his support and leadership during his term.

Mr. MacAloney stated that Mr. Driftmier will be long remembered, and expressed his best wishes to Mr. Petersen.

Mr. Swartz thanked the Board members, as well as extending a personal thank you to Mr. Driftmier. He further stated that the Board was blessed to have Mr. Driftmier as President, especially given his passion for consumer protection.

Mr. Waldman stated that Mr. Driftmier was a great President, and thanked him for taking on the challenge of leading the Board this past year.

Ms. Kirkbride stated her gratitude to the outgoing officers and her excitement for the upcoming year.

Ms. LaManna stated that she is looking forward to a great year.

Ms. Chi expressed her gratitude to Mr. Driftmier for his passion and leadership.

Ms. Anderson stated her appreciation for the outgoing officers and expressed her congratulations to those newly elected.

Mr. Bermúdez stated his best wishes to Mr. Driftmier and his congratulations to the newly elected officers.

Mr. Petersen stated that he is looking forward to the upcoming year. He wanted to express that he would like to focus on speaking out in the community and listening to the public. He is also enthusiastic and looking forward to working with everyone.

I. Comments from CalCPA Representative.

Mr. Schultz thanked last year's officers and all Board members, and issued a welcome to Mr. Elkins.

J. Comments from SCA Representative.

Mr. Tolkan issued a welcome to Ms. Bowers and thanked Mr. Driftmier for his leadership. He also commended Mr. Bermúdez for his valid opinions and wished to recognize the new officers. He further stated that he looks forward to working with the Board in the new year.

K. Public Comments.

Mr. Howard thanked the previous Board officers and issued his congratulations to those newly elected.

Mr. Olson issued a statement (**see Attachment 17**) urging the Board to seek stronger powers from the Legislature and the Governor to deal with financial atrocities.

Mr. Harris thanked the Board members for their work.

Mr. Santiago thanked Mr. Driftmier for his leadership.

Mr. Bishop issued his congratulations to the newly elected officers and thanked Mr. Driftmier. He also mentioned that Ms. Sigmann, the Board's previous Executive Officer, was the recent recipient of the Lorraine Sachs Award. He further stated that any responses to the 120/150 discussion paper may be submitted online, as well as his concurrence with all that transpired at the committee and Board meetings.

L. Agenda Items for Future Board Meetings.

No agenda items were identified.

XIV. Adjournment.

President Driftmier adjourned the meeting at 2:27 p.m. on Friday, November 21, 2008.

Donald Driftmier, President

Rudy Bermúdez, Secretary-Treasurer

Marisa Becerra-Garcia, Executive Analyst, and Patti Bowers, Executive Officer, California Board of Accountancy, prepared the Board minutes. If you have any questions, please call (916) 561-1718.