

**CALIFORNIA BOARD OF ACCOUNTANCY**

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**DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY**

FINAL

**MINUTES OF THE
 July 19-20, 2007
 BOARD MEETING**

Hilton Pasadena
 168 S. Los Robles Avenue
 Pasadena, CA 91101
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I. Call to Order.

President David Swartz called the meeting to order at 2:02 p.m. on Thursday, July 19, 2007, at the Hilton Pasadena and the Board heard Agenda Items III., VI., VII., IX.A., IX.B. and IX.D. The meeting adjourned at 4:25 p.m. Mr. Swartz again called the meeting to order at 9:30 a.m. on Friday, July 20, 2007, and the Board and ALJ Humberto Flores heard Agenda Item XII.A. The Board convened into closed session at 10:46 a.m. to deliberate and also to consider Agenda Items XII.B-G. The meeting reconvened into open session at 11:20 a.m. and adjourned at 11:55 a.m.

Board MembersJuly 19, 2007

David Swartz, President	2:02 p.m. to 4:25 p.m.
Donald Driftmier, Vice President	2:02 p.m. to 4:25 p.m.
Robert Petersen; Secretary-Treasurer	2:02 p.m. to 4:25 p.m.
Sally Anderson	2:02 p.m. to 4:25 p.m.
Richard Charney	2:02 p.m. to 4:25 p.m.
Angela Chi	2:02 p.m. to 4:25 p.m.
Sally Flowers	2:02 p.m. to 4:25 p.m.
Lorraine Hariton	2:02 p.m. to 4:25 p.m.
Clifton Johnson	Absent
Leslie LaManna	2:02 p.m. to 4:25 p.m.
Bill MacAloney	2:02 p.m. to 4:25 p.m.
Marshal Oldman	2:02 p.m. to 4:25 p.m.
Manuel Ramirez	2:02 p.m. to 4:25 p.m.
Lenora Taylor	2:02 p.m. to 4:25 p.m.
Stuart Waldman	2:02 p.m. to 4:25 p.m.

Board Members

July 20, 2007

David Swartz, President	9:30 a.m. to 11:55 a.m.
Donald Driftmier, Vice President	9:30 a.m. to 11:55 a.m.
Robert Petersen, Secretary-Treasurer	9:30 a.m. to 11:55 a.m.
Sally Anderson	9:30 a.m. to 11:55 a.m.
Richard Charney	9:30 a.m. to 11:55 a.m.
Angela Chi	9:30 a.m. to 11:55 a.m.
Sally Flowers	9:30 a.m. to 11:55 a.m.
Lorraine Hariton	9:30 a.m. to 11:55 a.m.
Clifton Johnson	Absent
Leslie LaManna	9:30 a.m. to 11:55 a.m.
Bill MacAloney	9:30 a.m. to 11:55 a.m.
Marshal Oldman	9:30 a.m. to 11:55 a.m.
Manuel Ramirez	9:30 a.m. to 11:55 a.m.
Lenora Taylor	9:30 a.m. to 11:55 a.m.
Stuart Waldman	9:30 a.m. to 11:55 a.m.

Staff and Legal Counsel

Kevin Bush, Deputy Attorney General, Department of Justice
Patti Franz, Chief, Licensing Division
Melody Friberg, Regulation/Legislation Analyst
Mary Gale, Communications and Planning Manager
Mary LeClaire, Executive Analyst
Pete Marcellana, Practice Privilege Analyst
Kris McCutchen, Initial Licensing and Practice Privilege Manager
Greg Newington, Chief, Enforcement Program
Dan Rich, Assistant Executive Officer
George Ritter, Legal Counsel
Carol Sigmann, Executive Officer
Aronna Wong, Regulation/Legislation Analyst

Committee Chairs and Members

Roger Bulosan, Chair, Qualifications Committee

Other Participants

Ken Bishop, Chair, NASBA CPA Mobility Task Force
Thomas Chenowith
Mike Duffey, Ernst & Young LLP
Stephen Friedman, Society of California Accountants (SCA)
Barry Goldner, Attorney at Law
Kenneth Hansen, KPMG LLP
Richard Robinson, E&Y, DT, PWC, KPMG
Silver Dollar Sack

Ms. Franz for their assistance and indicated that the technical information provided at the QC meetings is very valuable. Mr. Swartz thanked Mr. Bulosan and the QC for their thoroughness and the hours they commit toward this important job. He indicated that the QC's efforts go beyond what is expected and that Mr. Bulosan and the QC represent the Board well.

2. Proposed 2008 QC Meeting Dates.

It was moved by Mr. Driftmier, seconded by Ms. Anderson, and unanimously carried to adopt the proposed 2008 QC meeting dates. (See Attachment 7.)

C. Committee on Professional Conduct (CPC).

1. Minutes of the May 10, 2007, CPC Meeting.

The minutes of the May 10, 2007, CPC meeting were adopted on the Consent Agenda (See Agenda Item XIII.C.)

2. Report on the July 19, 2007, CPC Meeting.

Mr. Driftmier expressed to Ms. Wong that she had been a stellar example of public service and thanked her for her valuable contributions on the CPC.

Mr. Driftmier reported that with regard to cross-border practice, staff would be developing a matrix to inform the CPC and the Board regarding law changes in other states. Additionally, draft statutory language related to cross-border practice will be provided for review and discussion at the November 2007 CPC and Board meetings. Mr. Driftmier stated a discussion of peer review is scheduled for the September 2007 CPC and Board meetings and that the CPC discussed the following agenda items.

3. Timeframes for Addressing Cross-Border Practice and Peer Review.

Mr. Driftmier reported that with regard to the timeframes for addressing Cross-Border Practice and mandatory Peer Review, the CPC recommended that the Board approve the timeframes in the memorandum provided for this agenda item. **(See Attachment 8.)** The CPC notes that the timeframes for addressing mandatory Peer Review may change depending on the outcome of the August 3, 2007, meeting of Board leadership with legislative staff.

It was moved by Mr. Ramirez, seconded by Mr. Oldman, and unanimously carried to adopt the proposed timeframes for addressing Cross-Border Practice and mandatory Peer Review.

4. Policy Decisions to Provide Direction for Drafting Statutory Language to Address Cross-Border Practice Issues.

Mr. Driftmier reported that with regard to cross-border practice issues, the CPC has the following recommendations related to the following key issues.

- With regard to notification, the CPC recommended Option 5 in the staff analysis (**See Attachment 9.**) which is to eliminate the requirement for notification and the fee associated with California practice privilege but only permit a practitioner to perform the same services he or she is legally authorized to perform in his or her state of principal place of business. Also, the CPC recommended the elimination of the temporary/incidental practice provision in current law for United States practitioners.

It was moved by Mr. Ramirez, seconded by Ms. Flowers, and carried to adopt the CPC recommendation. Mr. Waldman abstained.

- With regard to substantial equivalency, the CPC recommended Option 4 in the staff analysis which is to not modify the practice privilege laws related to substantial equivalency. Instead, the Board would pursue a law change to sunset Pathway 1 at a specified future date. Pathway 1 required a baccalaureate degree and two years of experience for licensure. It was noted that this law change would make California a substantially equivalent state.

Mr. Petersen stated that there was no discussion during the CPC meeting on how substantial equivalency would be achieved. For instance, a number of states have a requirement of 120 hours in order to sit for the CPA exam and a requirement of 150 hours for licensure. He indicated that California's Legislature had a concern that the 150-hour requirement would be punitive toward the economically disadvantaged. He further suggested that the Board adopt as a policy a requirement of a bachelor's degree to sit for the CPA exam and a requirement of 150 hours for licensure. Mr. Petersen indicated that this would still enable California to be considered a substantially equivalent state. Ms. Wong stated that these same requirements are in Pathway 2 which would remain in California law.

It was moved by Mr. Petersen, seconded by Mr. Ramirez, and unanimously carried to adopt the CPC recommendation.

- With regard to cross-border practice by firms, the CPC recommended a modified version of Option 4 of the staff analysis. The recommendation is that the Board provide an alternative form of firm registration as described in Option 3, but only for firms performing audits of entities with a home office in California. The alternative firm registration would require that one partner or shareholder who qualifies for practice privilege provide the Board with his/her name, state of principal place of business, license number, and the identifying information about the firm currently required for the firm to practice through a practice privilege holder. That partner or shareholder would serve as the contact person for the firm's practice in California.

Mr. Petersen inquired if the term "home office" would be defined by regulation. Ms. Wong stated that Mr. Bishop indicated that a definition of "home office" has been developed and would be included in the proposal to the Legislature.

It was moved by Mr. Oldman, seconded by Dr. Charney, and unanimously carried to adopt the CPC recommendation.

D. Legislative Committee.

1. Minutes of the May 10, 2007, Legislative Committee Meeting.

The Minutes of the May 10, 2007, Legislative Committee meeting were adopted on the Consent Agenda. (See Agenda Item XIII.C.)

2. Update on Legislation.

- a. AB 721 (Maze) – Public Records: Request from Legislature.

Mr. Waldman reported that AB 721 would require state agencies to respond within three business days when a public records request comes from a member of the Legislature. AB 721 is currently awaiting a hearing in Assembly Appropriations. The Legislative Committee recommends that the Board continue to "watch" this bill.

- b. AB 865 (Davis) – State Agencies: Live Customer Service Agents.

Mr. Waldman reported that the introduced version of AB 865 required that each state agency establish a procedure for telephone calls received on a public line to be answered by a live customer service agent within 10 rings. The bill has been amended to provide that if the call is answered by an automated system, then there shall be a prompt that allows the caller to

Memorandum

CPC Agenda Item II
July 19, 2007

Board Agenda Item IX.C.3
July 19-20, 2007

To : CPC Members
Board Members

Date : July 3, 2007

Telephone : (916) 561- 1711

Facsimile : (916) 263- 3674

E-mail : csigmann@cba.ca.gov

From : Carol Sigmann
Executive Officer

Subject : Timeframes for Addressing Cross-Border Practice and Mandatory Peer Review

The Committee on Professional Conduct (CPC) and Board will be deliberating on two important issues this year, Cross-Border Practice and Mandatory Peer Review. It is crucial that these policy issues be fully vetted and decisions reached to facilitate timely enactment of any necessary statutory changes.

To effectively facilitate this effort and in order to allow enough time to cover two complex topics, discussions on Cross-Border Practice and Peer Review have been scheduled to take place at alternate CPC/Board meetings. The timeframes outlined in this memo provide details.

CROSS-BORDER PRACTICE

- **July 2007** – Consideration of issue paper by the CPC/Board and the development of policy direction for drafting statutory language. The issue paper addresses the three main issues related to cross-border practice: (1) eliminating or easing the notification requirement, (2) substantial equivalency, and (3) cross-border practice by firms.
- **November 2007** – Consideration of and action on any remaining issues related to cross-border practice by the CPC/Board. Review draft statutory language based on the policy decisions made at the July 2007 meeting.
- **March 2008** – Review and approval of proposed statutory language by CPC/Board for amendment into Legislation.
- **April – June 2008** - Proposed language to be amended into legislation. Bill to be heard in Senate committees and considered by Senate.
- **July 2008** – Begin process of drafting regulations if needed.
- **July – August 2008** – Bill to be heard in Assembly committees and considered by the Assembly.
- **September 2008** – Bill to the Governor for signature.

- **October 2008 - July 2009** –Completion of rulemaking process for the formal adoption of regulations.
- **January 2009** - Bill becomes law.
- **July 2009** – Anticipated date for law and regulatory changes to become operative.

MANDATORY PEER REVIEW

- **August 2007** – Board leadership to meet with Legislative staff to discuss process related to providing the Peer Review Report to Legislature. The remaining timeframes may change based on the outcome of this meeting.
- **September 2007** – Discussion of critical policy issues related to mandatory peer review by CPC/Board: (1) who participates, (2) addressing deficient findings, and (3) transparency.
- **January 2008** - Continued discussion by CPC/Board on policy issues including oversight and renewal. Development and approval of policy recommendations.
- **February 2008** – If needed, a special Board meeting to be scheduled on February 20th or 21st to address any outstanding issues related to mandatory peer review.
- **May 2008** – CPC/Board to consider draft Report to the Legislature including proposed statutory language.
- **July 2008** – CPC/Board to adopt final Report to the Legislature including proposed statutory language.
- **September 2008** - Report submitted to the Legislature.
- **November – December 2008** - Interim hearings as determined by the Legislature.
- **February 2009** - Introduce bill with law changes related to mandatory peer review.

The timeframes for considering and acting on both of these issues are extremely tight. Any delay in decision making on these issues would affect the timing of the Board's implementation of these new programs.

Memorandum

CPC Agenda Item III
July 19, 2007

Board Agenda Item IX.C.4
July 19-20, 2007

To : CPC Members
Board Members

Date : July 9, 2007

Telephone : (916) 561-1739

Facsimile : (916) 263- 3672

E-mail : kmccutchen@cba.ca.gov

K. McCutchen
From : Kris McCutchen, Manager
Practice Privilege Unit

Subject : Policy Decisions to Provide Direction for Drafting Statutory Language to Address
Cross-Border Practice Issues

Attached for your consideration is a staff analysis of the three main issues related to cross-border practice: (1) eliminating or easing the notification requirement, (2) substantial equivalency, and (3) cross-border practice by firms.

The staff analysis includes an overview, brief background, several options, and advantages and disadvantages for each issue related to cross-border practice. When decisions are made on the critical issues referenced above, staff and legal counsel can begin drafting statutory amendments for CPC and Board consideration at the November 2007 meeting.

Attachment

CROSS-BORDER PRACTICE ISSUES

INTRODUCTION

At the March 22-23, 2007, Board meeting, representatives of the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA) made a presentation to the Board regarding the need to ease cross-border practice. The presentation covered proposed revisions to the Uniform Accountancy Act (UAA) intended to increase the uniformity of states' laws underpinning cross-border practice. (See Attachment 1 for excerpts from the minutes of that meeting.)

At the May 2007 meetings of the CPC and the Board, discussion related to mobility and the UAA Exposure Draft continued. The Exposure Draft was considered for two reasons. First was to determine whether the Board wanted to submit comments. (The comment letter submitted by the Board is provided as Attachment 2.) A second reason for considering the Exposure Draft was to determine if the Board wishes to pursue changes in California law to address the difficulties involved in cross-border practice as articulated at the March 2007 meeting. The purpose of this paper is to address the second objective related to developing proposed revisions to California law.

This analysis covers the three main issues related to cross-border practice: (1) eliminating or easing the notification requirement, (2) substantial equivalency, and (3) cross-border practice by firms.

In evaluating these issues and options, the CPC and the Board may wish to keep in mind the following questions:

- What should be the qualifications for a practitioner or firm to legally practice in California?
- How much Board oversight is essential for consumer protection?
- Where should the line be drawn between essential consumer protection and unnecessary regulation that restricts cross-border practice?

ELIMINATING OR EASING THE NOTIFICATION REQUIREMENT

OVERVIEW

During the past two meetings, the CPC and the Board heard comments indicating that to be responsive in today's business environment and to adequately serve their clients, CPAs need to be able to practice in multiple states. It was noted that the current system of state-based regulation, with its lack of uniformity and varied notification

requirements, makes cross-border practice very difficult. The solution proposed in the UAA Exposure Draft has been characterized as “no notice/no fee/no escape.”

At its May 10, 2007 meeting, the CPC reviewed a staff analysis of the UAA Exposure Draft, which included discussion points both in favor of and in opposition to eliminating the notification requirement. (Attachment 3 provides those discussion points for consideration. Also see the minutes of that meeting, CPCC Agenda Item 1, for more information.) After reviewing and discussing the staff analysis, the CPC recommended, and the Board adopted, a position of support for modifying the UAA to eliminate the notification requirement for cross-border practice. The CPC also placed on its agenda for discussion at a future meeting consideration of whether California law should be modified to incorporate the “no notice/no fee” approach, and if so, what form those modifications should take.

Before considering various options, the CPC has before it the general question of whether the notification currently required for California practice privilege should be eased or eliminated to facilitate practice in California by CPAs licensed in other states. When deliberating on this question, the CPC may find it useful to consider the following key points brought up at its May 2007 meeting:

- The CPC expressed support for the overarching principle that state boards should trust one another to appropriately license and appropriately discipline. The Board supported this viewpoint and noted that trust is fundamental to facilitating the twin goals of consumer protection and enhanced mobility. From this perspective, it can be argued that the appropriate “front end” checks on a practitioner’s qualifications and the “back end” checks to discipline as necessary have already been accomplished by the state board in the practitioner’s home state; making notification nothing more than a record-keeping process.
- Ms. D’Angelo Fellmeth representing the Center for Public Interest Law (CPIL) communicated CPIL’s opposition to the “no notice/no fee approach.” As stated in the draft May 10, 2007 minutes “She [Ms. D’Angelo Fellmeth] indicated that there is anecdotal evidence to show mobility is a problem, but no real data. She expressed concern regarding whether the problem was of sufficient magnitude to warrant dismantling the state-based licensing system that has been in place for over 100 years. She added that she would have a greater comfort level with the proposal if there was some demonstration of the magnitude of the problem and if an alternative system such as the national licensee database was fully up and running.”
- Richard Robinson, representing his clients (the “Big Four” accounting firms) presented a “driver’s license analogy.” The May 10, 2007 draft CPC minutes state: “He [Mr. Robinson] explained that if a person has a driver’s license in New York, that person does not need to get another license to drive in California, but does need to comply with California’s Motor Vehicles Code. If a person with a California driver’s license goes to New York, that person has to comply with New York’s laws. For example, in California, it is legal to turn right on a red light, but it is illegal in New

York, and if California-licensed driver turns right on a red light in New York, that person can get a ticket.” This driver’s license analogy may be useful for conceptualizing the “no notice/no fee” approach.

If, after deliberating on the information that has been provided, it is concluded that the notification currently required for California practice privilege should be modified, either by eliminating notification altogether or by changing the requirements in some way to ease practice in California by out-of-state CPAs, then the next step would be to identify more specifically what form that modification should take. Below are some possible options for eliminating or easing the notification requirement for California practice privilege.

OPTIONS FOR CONSIDERATION

Option 1: Eliminate the requirement for notification and the fee associated with California practice privilege. Permit any practitioner who meets California’s substantial equivalency requirements and who holds a current, valid license to practice public accountancy in the state of principal place of business to practice in California.

Advantages:

- This option is consistent with the overarching principle that state boards should trust one another to appropriately license and appropriately discipline practitioners.
- Eliminating notification would make it much easier for CPAs licensed in other states to serve clients in California.
- Changing California’s laws to eliminate notification would allow California to participate in a national effort to ease mobility and facilitate cross-border practice.
- It has been suggested that since there is automatic jurisdiction, complaint-driven enforcement, and reportable events requirements, eliminating notification streamlines administration and reduces unnecessary record-keeping without weakening consumer protection.
- The consumer information benefits of notification may be addressed more efficiently through other means. The NASBA licensee database, when fully operational, will make information available to consumers about practitioners licensed anywhere in the United States.

Disadvantages:

- Under this option, the Board would be unable to perform any “front end” checks to make sure a practitioner engaged in cross-border practice is duly licensed and has not been disciplined or convicted of a crime.

- This option would permit unrestricted practice by a practitioner whose license has been disciplined in a state other than the state of principal place of business, or whose license in the state of principal place of business has been restricted but is still "current and valid."
- This option would permit unrestricted practice by practitioners who have been convicted of a crime until the state of principal place of business takes appropriate discipline.
- Notification currently enables the Board to provide information to consumers via licensee-lookup regarding an out-of-state practitioner's qualifications, thereby assisting consumers in making informed decisions. Until NASBA's licensee database is fully up and running, eliminating notification would take away this important source of information for consumers.
- It can be argued that notification provides a means of informing out-of-state practitioners about California's requirements. Without notification, licensees engaged in cross-border practice would bear the full burden of educating themselves regarding California's requirements.

Option 2: Eliminate the requirement that out-of-state licensees seeking California practice privilege give notification to the Board. Instead require out-of-state licensees to provide notification and pay a fee to a central database for cross-border practitioners to be developed in the form of national tracking system. The fee would support database development and maintenance. Encourage other states to adopt similar law changes so that this national database would serve as a resource for state boards and consumers seeking information regarding practitioners engaged in cross-border practice.

Advantages:

- Since practitioners would only be required to provide one notification and pay one fee, the burden of engaging in cross-border practice would be eased significantly.
- This option has the potential to provide many of the same consumer protection and consumer information benefits as the current Practice Privilege Program.

Disadvantages:

- The entity that would develop and administer such a database has not been identified. While NASBA appears to be a logical choice, it has not agreed to be the administering entity.
- To meet the needs of multiple state boards, notification requirements might need to be simplified which could diminish the consumer protection benefits of notification; or

alternatively the administering entity would need the capability to review requirements unique to each jurisdiction which could be complex and costly.

- For an entity other than NASBA to successfully develop and maintain this database, many states would have to agree to participate, enact appropriate law changes, and enter into contracts with the database developer. This scenario appears unlikely.

Options 3: Eliminate the requirement for notification and the fee associated with California practice privilege as in Option 1, but only for those practitioners providing non-attest services. Continue to require notification for attest services.

Advantages:

- This option would make it much easier for practitioners licensed in other states to provide non-attest services to California clients.
- This option would retain notification for the area of greatest consumer risk – attest services.
- Since audits are signed in the name of the firm, there is a possibility the consumer might not know the identity of a practitioner causing consumer harm and therefore may not be able to communicate this information to the Board. Requiring notification for attest services is a way to address this concern.
- To be authorized to sign reports on attest engagements under California practice privilege, a minimum of 500 hours of attest experience is required. Requiring notification for attest services would enable the Board to retain the ability to verify compliance with this requirement.
- This option might be a reasonable first step in order to gradually move towards eliminating notification for all services.

Disadvantages:

- The Board would be unable to perform any “front end” checks to make sure the practitioner is duly licensed and has not been disciplined or convicted of a crime. Furthermore, with no notification the licensee-lookup information currently available on the Board’s Website would no longer be available to assist consumers.
- This option would make California’s cross-border provision inconsistent with the UAA and possibly inconsistent with the laws of most other states.

Option 4: Eliminate the requirement for notification and the fee associated with practice privilege as in Option 1. Permit any practitioner who has not had his or her right to practice revoked or restricted by a regulatory authority or been convicted of specified crimes related to the practice of public accountancy such as embezzlement or fraud

within a specified period of time (for example, a five-year period) to practice public accountancy in California without notification or fee.

Currently, under California practice privilege, practitioners must report potentially disqualifying conditions which include being convicted of a crime; having a license denied, suspended, revoked, or otherwise disciplined or sanctioned; being the subject of an investigation by or before a state, federal, or local agency or court; or having had a judgment or arbitration award of \$30,000 or greater related to the practitioner's professional conduct. When a disqualifying condition is reported, Board staff review the reported information to make a determination regarding the practitioner's qualifications for practice privilege. In a sense, Option 4 would retain the basic policy behind this approach, but modify it for a "no notice" environment.

Advantages:

- By denying cross-border practice to licensees who have been disciplined by a regulatory authority or convicted of a crime, this option would provide better consumer protection than Option 1.
- Even though some individuals would be barred from cross-border practice, this option would still allow the vast majority of out-of-state CPAs to serve California clients without having to give notice.
- Like Option 1, this option would streamline administration and reduce the record-keeping currently required in the Practice Privilege Program.

Disadvantages:

- The Board would be unable to perform any "front end" checks to make sure the practitioner is duly licensed and has not been disciplined or convicted of a crime. Furthermore, with no notification, the licensee-lookup information currently available on the Board's Website would no longer be available to assist consumers.
- This option would be inconsistent with the UAA and with cross-border provisions in many states.
- This option could potentially deny cross-border practice to an out-of-state CPA who has been rehabilitated and is currently practicing in compliance with the law.

Option 5: Eliminate the requirement for notification and the fee associated with California practice privilege as in Option 1, but only permit a practitioner to perform the services he or she is legally authorized to perform in his or her state of principal place of business. For example, if a practitioner has been disciplined and is not permitted to perform audits in the state of principal place of business, he or she would not be authorized to perform audits in California.

Advantages:

- This option is consistent with the overarching principle that state boards should trust one another to appropriately license and appropriately discipline practitioners.
- By imposing the same restrictions on the license that exist in the state of principal place of business, this option would provide better consumer protection than Option 1.
- Like Options 1 and 4, this option would streamline administration and significantly reduce the record-keeping currently required in the Practice Privilege Program.

Disadvantages:

- This option would permit unrestricted practice by a practitioner whose license has been disciplined in a state other than the state of principal place of business.
- The Board would be unable to perform any “front end” checks to make sure the practitioner is duly licensed and has not been disciplined or convicted of a crime. Furthermore, with no notification, the licensee-lookup information currently available on the Board’s Website would no longer be available to assist consumers.
- This option would permit unrestricted practice by practitioners who have been convicted of a crime until the state of principal place of business takes appropriate discipline.

SUBSTANTIAL EQUIVALENCY**OVERVIEW**

The concept of substantial equivalency was added to the UAA a decade ago to bring about uniformity in state licensing requirements in order to facilitate cross-border practice. With the goal of uniformity in mind, states were encouraged to enact licensing laws “substantially equivalent” to the requirements in the UAA. The UAA’s licensure requirements provide basic standards for entry-level competency in the areas of education, exam, and experience.

The Board pursued conformity with the UAA in two phases. In the first phase, as part of its 2000 sunset review, the Board studied the UAA and proposed changes to its licensing laws to achieve more consistency with the UAA’s licensing provisions. The outcome of the sunset review process was a legislative compromise, which, in 2001, enacted two “pathways” to licensure. These pathways are codified in Business and Professions Code Sections 5092 and 5093. Pathway 1 allows applicants to qualify for licensure with only a baccalaureate degree, but requires two years of experience (Section 5092). Pathway 2 (Section 5093) is consistent with the UAA and requires that

licensure applicants complete a baccalaureate degree and 150 semester units of education. These applicants have a one-year experience requirement.

After these laws were enacted, the Board requested an evaluation by NASBA's Qualification Appraisal Service to assess California's substantial equivalency. The Board was informed that California was "substantially equivalent," but only with regard to Pathway 2. Because of having two pathways to licensure, many states that have enacted UAA cross-border provisions do not view California as a fully substantially equivalent state.

The second time the Board considered the UAA was in 2003-2004. This time the discussion focused on cross-border practice and concluded with the development of the Practice Privilege Program. In developing this program, an attempt was made to achieve consistency with the UAA by requiring compliance with the provisions in Section 5093 for California practice privilege. Specifically, current practice privilege requirements make practice in California available to licensees of other states who meet one of the three requirements: (1) the practitioner is from a state considered by the Board to have licensure requirements "substantially equivalent" to Business and Professions Code Section 5093; (2) the practitioner has individually met licensure requirements "substantially equivalent" to Business and Professions Code Section 5093; or (3) the practitioner has practiced public accountancy for four of the last ten years. This later provision was intended to make cross-border practice available to licensees who were not from "substantial equivalent states" and may have obtained licensure prior to the establishment of the requirement to complete 150 semester units of education.

These practice privilege requirements were consistent with substantial equivalency provisions in UAA Section 23 at the time the Board considered this issue in 2003-2004. Recent revisions to the UAA allow those individuals licensed before 2012 to be deemed substantially equivalent without completing 150 semester units of education.

The UAA Exposure Draft discussed at Board meetings in March and May 2007 proposed many revisions to the UAA related to cross-border practice, but did not speak to substantial equivalency. However, the CPC at its May 2007 meeting did express an interest in considering substantial equivalency in the context of changes to California law for enhanced mobility. During those discussions and earlier discussions of the matter, it was noted that although the concept of substantial equivalency was originally intended to facilitate mobility, current laws might instead be creating a barrier to cross-border practice. Within this framework, the following questions may merit consideration by this CPC and the Board: (1) Do the substantial equivalency provisions in California law need to be modified to better facilitate cross-border practice by qualified out-of-state practitioners seeking to serve California clients? (2) Do California laws need to be modified in order to make it easier for California CPAs to serve their clients in other states? The options discussed below address one or both of these questions. It would also be possible to combine options so that both questions are addressed.

OPTIONS FOR CONSIDERATION

Option 1: Eliminate all substantial equivalency requirements (including the provision of practicing public accountancy for four of the last four years) for cross-border practice in California and allow any CPA to practice here who has a current, valid license to practice public accountancy from any state.

Advantages:

- Eliminating the substantial equivalency provision would make it easier for out-of-state CPAs to practice in California. Currently, some CPAs with current, valid licenses do not qualify for California practice privilege because they are not from a “substantially equivalent” state, do not have the 150 semester units of education, and have not been practicing long enough to meet the requirement of practicing public accountancy for four of the last ten years. Under this option, these CPAs would be able to practice in California.
- This option is consistent with the overarching principle that state boards should trust one another to appropriately license and appropriately discipline.
- By eliminating all educational requirements for California practice privilege, this option would address the concern that California has higher standards for practice privilege than for licensure.

Disadvantages:

- Eliminating the substantial equivalency requirements could permit individuals with inadequate education to practice in California. It was noted that some states (for example Delaware) license individuals with only an Associate of Arts degree.
- This option, by itself, would not make it easier for California CPAs to practice in other states.
- This option is inconsistent with the UAA and the cross-border provisions in most other states.

Option 2: Modify the Board’s substantial equivalency requirements so that out-of-state CPAs with current, valid licenses can practice in California if they meet the requirements of either Section 5092 or 5093 of the Business and Professions Code (not just Section 5093 as in current law).

Advantages:

- This option would allow most out-of-state CPAs to practice in California without making practice privilege available to individuals with only an Associate of Arts degree.
- This option would address the concern that California has higher standards for practice privilege than for licensure.

Disadvantages:

- This option, by itself, would not make it easier for California CPAs to practice in other states.
- This option is inconsistent with the UAA and the cross-border provisions in most other states

Option 3: Eliminate current substantial equivalency requirements. Instead permit CPAs with current, valid licenses issued by other states to practice in California only if California CPAs are permitted to practice in their states. For example, allow CPAs from Arizona to practice in California only if Arizona allows California CPAs to practice there. This option would need a delayed effective date to allow other states time to make the necessary law changes.

Advantages:

- Once other states enact the necessary law changes, this option would make it easier for California CPAs to practice in other states.
- This option is built on the underlying assumption that other states appropriately license and appropriately discipline, and is consistent with the overarching principle of mutual trust among state boards.

Disadvantages:

- It could be logistically challenging to work out such agreements with other states, and it may be very difficult for all of the other states involved to pursue appropriate law changes.
- This option is inconsistent with the approach to cross-border practice in the UAA and in the laws of most other states.
- In some instances, this option could allow CPAs with inadequate education to practice in California.

Option 4: Do not modify the practice privilege laws related to substantial equivalency. Instead, pursue a law change to sunset Pathway 1 at a specified future date (for example January 1, 2012).

Licensing statistics show that Pathway 2 has become an increasingly popular choice among applicants for licensure. In 2002 when the “pathways” were created, there were more than three times as many applicants licensed under Pathway 1 compared with Pathway 2. Since that time, the number of licenses issued under Pathway 1 has steadily declined, while the number of licenses issued under Pathway 2 has steadily increased. In 2005, Pathway 2 became the more popular licensing option (1549 licenses were issued under Pathway 2, while 1143 licenses were issued under Pathway 1). The difference in the number of applicants seeking licensure under the two pathways further increased in 2006 (1616 licenses were issued under Pathway 2 compared with only 888 licenses under Pathway 1).

Advantages:

- This option would allow California to become a fully substantially equivalent state making it easier for all California CPAs to practice in other states that have enacted the UAA cross-border practice provisions.
- This option would address the concern that California has higher standards for practice privilege than for licensure.
- This option is consistent with the UAA.

Disadvantages:

- This option, in itself, would not make it easier for out-of-state CPAs to practice in California.
- This option would affect licensure as well as practice privilege requirements and would make entry into the profession more difficult at a time when there is a shortage of CPAs. For this reason, it may be difficult to obtain support for this legislation.

CROSS-BORDER PRACTICE BY FIRMS

OVERVIEW

Concerns about cross-border practice by firms increased with the development of the Practice Privilege Program. Most of the practice privilege laws were enacted in 2004 with an operative date of January 1, 2006. During 2005, the Practice Privilege Task Force met to develop regulations for implementing the program. At the Task Force’s March 2005 meeting, it was noted that problems could arise in 2006 when the practice privilege laws replaced the temporary/incidental practice provision that for many years

had allowed out-of-state practitioners and firms some flexibility with regard to cross-border practice in California. The concern was that the practice privilege laws in effect at that time provided for cross-border practice only by individuals and contained no mechanism for cross-border practice by firms.

Tax practitioners in particular communicated concern to the Task Force that, without registering their firms, they would no longer be able to prepare tax returns for clients who had moved to California. In response to this problem, in 2005, Business and Professions Code Section 5054 was enacted creating a very narrow exception from practice privilege, licensure, and firm registration requirements so that out-of-state CPAs and CPA firms could prepare tax returns for California residents. (See Attachment 4.)

In 2006, when the California practice privilege laws became operative, it became clear that this exception was too narrow. Section 5054 did not permit out-of-state CPAs and their firms to prepare corporate and partnership tax returns or to provide financial statement services to California clients. To provide these services the practitioner would need a practice privilege and the firm would have to register. It was also noted that many firms found it difficult to meet California's firm registration requirements. In order to register, the firm would need a California licensee as a partner or shareholder. In addition, California law permits registration of firms as either professional corporations or as partnerships, including limited liability partnerships (LLPs), while some out-of-state firms are organized differently, for example as Limited Liability Companies (LLCs).

To address these concerns, in 2006, Sections 5035.3, 5096.12, and 5096.13 were added to the California Accountancy Act by AB 1868 (see Attachment 5). These statutes allow an out-of-state firm to practice through a practice privilege holder who, on his or her notification form, is required to provide specific identifying information about the firm such as (a) firm name, (b) address, (c) phone number, and (d) federal taxpayer identification number. When practicing under this provision, the firm consents to the Board's jurisdiction. From October 2006 through April 2007, more than 2,000 practice privilege holders identified firms as practicing through their practice privileges.

As discussed above, the CPC and the Board recently considered the UAA Exposure Draft proposing changes to enhance mobility. A key component of the proposal is the elimination of the notification requirement for individual practice privilege. The Exposure Draft also includes proposed modifications related to firms intended to provide for consumer protection and make the UAA's firm registration provisions compatible with a "no notification" environment.

Because the current firm cross-border practice provisions in California law are tied to notification, some modifications will need to be made if the Board decides to pursue a law change to modify or eliminate practice privilege notification requirements. Below are some options for making these modifications. It should be noted that if the CPC and

the Board decide to retain the current notification requirement, no law changes related to firm cross-border practice would be needed.

OPTIONS FOR CONSIDERATION

Option 1: Adopt the proposed provisions for firm registration in the UAA Exposure Draft.

For a firm that has an office in the state, the Exposure Draft requires registration if it either provides attest services or uses CPA in the firm name or does both. If the firm does not have an office in the state, it must register if it provides audit services for a client with a home office in the state.

The Exposure Draft also permits firms that do not have an office in the state to provide services in the state without registration provided the services are performed by a practice privilege holder and other specified requirements are met. To perform audits for a client that does not have its home office in the state or compilations and reviews for a client that has its home office in the state the firm must participate in a peer review program and comply with the firm ownership provisions in the UAA. Other services may be provided if the firm may lawfully provide those services in the state where the practice privilege holders have their principal place of business.

These requirements represent a significant departure from current California firm registration requirements which are not based on performing attest services or using the CPA title.

Advantage:

- This option could ease cross-border practice if all states enacted the UAA provisions for firm registration.

Disadvantages:

- Because the UAA provisions are very complex and lack key definitions (for example, definition of "home office"), it would be difficult for the Board to communicate the substance of and necessity for these law changes to the Legislature.
- This proposal would involve significant changes in California's firm registration requirements that are unrelated to cross-border practice. There appears to be no need for these changes, and implementation could be challenging for staff and licensees.
- The UAA's registration requirement for firms without an office in the state applies to audits but not reviews. The Board at its May 10-11, 2007, meeting indicated that it did not support this approach and believed the same requirements should apply to both of these attest services.

did not support this approach and believed the same requirements should apply to both of these attest services.

Option 2: Modify current law to permit cross-border practice by firms with no notification provided the firm only performs the services it is legally authorized to perform in the state where it is registered and performs these services only through a California practice privilege holder or a California licensee.

Advantages:

- This option would ease cross-border practice by firms.
- By eliminating notification and registration requirements, this option could streamline administration and reduce unnecessary record-keeping.
- This option is consistent with the principle that state boards should trust one another to appropriately license and appropriately discipline.

Disadvantages:

- Since audits are signed in the name of the firm, under this option there is the risk that the consumer might not know the identity of a practitioner causing consumer harm and therefore may not be able to communicate this information to the Board. This disadvantage is exacerbated by the fact there may be more than one firm with the same name.
- It can be argued that this option provides less consumer protection than the UAA Exposure Draft with respect to audits by firms with home offices in this state.

Option 3: Create an “alternative firm registration” process as described below.

This “alternative firm registration” process would require that one partner or shareholder who qualifies for practice privilege provide the Board with his/her name, state of principal place of business, license number, and the identifying information about the firm that is currently required for the firm to practice through a practice privilege holder. That partner or shareholder would then serve as the contact person for the firm’s practice in California. Other employees of the firm who qualify for practice privilege could then practice in California without notice. This “alternative firm registration” would only be available to a firm that does not have a California office.

Advantages:

- This option retains many of the features of the current approach to firm cross-border practice that appears to be working well.

- Since the Board would have identifying information about the firm and a contact person in the firm, it can be argued that this option permits the Board to be more responsive to consumer inquiries and/or complaints than Option 2.
- Because this option retains key features of current law, it may be easier to pursue the necessary legislation.

Disadvantages:

- It can be argued that any form of notification/registration interferes with mobility.
- It has been suggested that since there is automatic jurisdiction and complaint-driven enforcement, any form of notification/registration is unnecessary record-keeping.

Option 4: Provide an alternative firm registration, as described in Option 3, but only for attest services. Non-attest services could be provided without any form of firm registration.

Advantages:

- By requiring “registration” for attest services, this option focuses on the area of greatest consumer risk and provides better public protection than Option 2.
- By permitting out-of-state firms to provide tax and other non-attest services in California without registering, this option would more readily facilitate mobility better than Option 3.
- Like Option 3, this option retains key features of current law.

Disadvantages:

- It can be argued that any form of notification/registration interferes with mobility.
- It has been suggested that since there is automatic jurisdiction and complaint-driven enforcement, any form of notification/registration is unnecessary record-keeping.

CONCLUSION:

The issues and options in this analysis are provided to assist the CPC and the Board in developing policy direction related to cross-border practice. This direction will guide staff and legal counsel in drafting statutory amendments for consideration at future meetings.

Prepared July 9, 2007



CALIFORNIA BOARD OF ACCOUNTANCY

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Attachment 1

DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY

FINAL

MINUTES OF THE
 March 22-23, 2007
 BOARD MEETING

Sheraton Pasadena Hotel
 303 East Cordova Street
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I. Call to Order.

President David Swartz called the meeting to order at 1:32 p.m. on Thursday, May 22, 2007, at the Sheraton Pasadena Hotel and the Board heard Agenda Items XIII.B.1. and XIII.D. The meeting adjourned at 4:20 p.m. President David Swartz again called the meeting to order at 8:10 a.m. on Friday, March 23, 2007, and the Board and ALJ Christopher Ruiz heard Agenda Item XII.A. The Board convened into closed session at 9:15 a.m. to deliberate and also to consider Agenda Items XII.B-K. The meeting adjourned at 2:20 p.m.

Board MembersMarch 22, 2007

David Swartz, President	1:32 p.m. to 4:20 p.m.
Donald Driftmier, Vice President	1:32 p.m. to 4:20 p.m.
Robert Petersen, Secretary-Treasurer	1:32 p.m. to 4:20 p.m.
Ronald Blanc	1:32 p.m. to 4:20 p.m.
Richard Charney	1:32 p.m. to 4:20 p.m.
Angela Chi	1:32 p.m. to 4:20 p.m.
Ruben Davila	1:32 p.m. to 4:20 p.m.
Sally Flowers	1:32 p.m. to 4:20 p.m.
Lorraine Hariton	1:32 p.m. to 4:20 p.m.
Thomas Iino	1:32 p.m. to 4:20 p.m.
Clifton Johnson	1:32 p.m. to 4:20 p.m.
Leslie LaManna	1:32 p.m. to 4:20 p.m.
Bill MacAloney	1:32 p.m. to 4:20 p.m.
Marshal Oldman	Absent
Stuart Waldman	1:32 p.m. to 4:20 p.m.

~~It was moved by Mr. Blanc, seconded by Ms. Flowers, and unanimously carried to adopt the responses to the focus questions with the additions noted above.~~

B. Cross-Border Practice.

1. NASBA and AICPA Presentation Related to Cross-Border Practice.

Mr. Swartz announced that most of the afternoon would be devoted to the issue of cross-border practice. He introduced Mr. David Costello, President and CEO of NASBA.

Mr. David Costello stated that the panel appreciated the opportunity to make its presentation to the Board. He introduced Mr. Ken Bishop, Chair of the NASBA Mobility Task Force. Mr. Costello additionally introduced Mr. Wesley Johnson, Chair of NASBA. He stated that Mr. Johnson was doing a tremendous job with the mobility effort.

Mr. Costello stated that NASBA's highest priority is providing public protection. He stated that there is a myth that consumer protection and mobility is an either/or proposition.

Mr. Costello stated that mobility is not a new concept. In 1974, the mobility of CPAs throughout the country was suggested. The idea of a national licensee database was also suggested, but the technology did not exist at that time. In 1998, the Uniform Accountancy Act was revised to include substantial equivalency, yet 10 years later, substantial equivalency is not fully understood. Substantial equivalency is about each state's law being substantially equivalent to the Uniform Accountancy Act's Model, not to other states' laws. Mr. Costello indicated that the problem is that states compare themselves to other states and raise the barriers.

Mr. Costello further stated that consumers want access to service and access to their preferred providers of service. CPAs need access to their clients and clients need access to their CPAs, wherever they reside. He stated that he believed that consumer choice of competent service providers is a paramount factor, whether that provider resides in or out of the state. Mr. Costello stated that he also believed that notification is not the key factor in protecting the public and that notification penalizes the complying CPA, not the non-compliant CPA.

Mr. Costello stated that one advantage of the "no-notice no-fee" approach is that it allows the reallocation of resources to the enforcement area, where it can have the most impact. Mr. Costello stated that under the revised Section 23, out-of-state CPAs must consent to the visiting state's administrative jurisdiction. Under this approach, the enforcement emphasis is on the CPA who does

something wrong. He stated that when he was the Executive Director of the Board of Tennessee, over 99 percent of the CPAs complied with the law. Yet, Tennessee continued to spend most of its time tracking the right doers instead of the wrong doers. He also indicated that the implementation of NASBA's accounting licensing database would facilitate efforts to put the emphasis on enforcement.

Mr. Costello concluded by asking that California join NASBA in the nationwide effort to implement the most effective mobility practice provisions for CPAs with an emphasis on the enhanced protection of the public interest.

Mr. Wesley Johnson thanked the Board for the opportunity to be a panel member. He stated that he retired from public accounting in January 2001, after 36 years of serving the public and his clients primarily in the audit area. He had worked with NASBA for over 10 years and was elected Chair in October 2006. He stated that he had served the Maryland State Board of Public Accountancy for two terms, serving as its Chair for most of that time.

Mr. Johnson stated that NASBA is an organization whose members are the state boards of accountancy, and its purpose is to enhance the effectiveness of state boards. The participation of past and present members of California's Board have made a big difference to NASBA.

Mr. Johnson stated that the new provisions for the Uniform Accountancy Act provide strong language and support for the enforcement of regulations and laws. The amendment had received strong support from NASBA's Board of Directors, NASBA's Uniform Accountancy Act Committee, and the AICPA. He additionally indicated that he believed that mobility was NASBA's number one priority. He added that by "mobility" he meant the ability for CPAs to cross state lines in order to serve clients without the impediments of numerous requirements for notice, reciprocal licensing, and other processes and procedures.

Mr. Johnson stated that because he believed this issue was important, he had formed NASBA's CPA Mobility Task Force and assigned committee members from small, medium, and large firms. Additionally, committee members included CPAs that were currently practicing and retired from various parts of the country. He added that a project manager had been hired to help carry on the work of the Task Force. He then indicated that NASBA was prepared to provide resources to state boards including testimony before state boards and state legislatures to assist states in passing these mobility provisions.

Mr. Johnson stated that the mobility provisions are important because currently, the lack of uniformity is creating problems. Currently, requirements exist that are confusing to CPAs across the country. The requirements do not promote public protection and do not allow licensees to move quickly in order to serve their clients effectively.

Mr. Johnson indicated that the project is gaining momentum. There are seven states that are in the process of including the new provisions in their laws and rules and seventeen additional states have taken substantial steps to adopt the mobility provisions. He stated that he believed that at least 30 states will have either implemented or taken steps to implement mobility by October 2007.

Mr. Johnson then provided several examples of CPAs that have experienced frustration with the current impediments to mobility and stated that these CPAs are dedicated to the practice of public accountancy.

Mr. Johnson concluded by asking the Board to join NASBA in the effort to make mobility successful.

Mr. Ken Bishop, Chair of the NASBA CPA Mobility Task Force, thanked the Board for the opportunity to participate as a panel member. He stated that he had spent over 30 years in government serving in the area of public protection including 25 years in law enforcement, ending his career as the Assistant Director of the Missouri Department of Public Safety and Commander of the Missouri Major Case Squad. In 1998, he was appointed as the Executive Director of the Missouri State Board of Accountancy where he served until January 2007, before joining NASBA. In November 2006, he was appointed as Chair for the CPA Mobility Task Force. Further, he acknowledged his respect and close working relationship with Ms. Sigmann.

Mr. Bishop reported that the introduction to the Exposure Draft states that the new language achieves the goals of enhancing public protection, facilitating consumer choice, and supporting the efficient operations of capital markets.

Mr. Bishop stated he had experience in the transition to mobility because Missouri was one of four states in the country that had implemented mobility. He stated that Missouri had gradually transitioned from temporary and incidental practice rules to mobility with notification and fee. He stated that Missouri then moved to mobility without notification or fee on a quid-pro-quo basis with neighboring states before implementing full Section 23 language a couple of years ago. The Missouri Board found that it was not

problematic to discipline a CPA because the receipt of the complaint essentially served the same purpose as notification.

Mr. Bishop stated that the Missouri Board discovered that mobility with notification had costs associated with it. It required staff resources to properly track, file, and maintain the parameters of the notification. He further stated that in Missouri, as in most states, there are open records requirements in which collected information must be made available to the public. Therefore, the quick cross-border practice notification was burdensome in terms of the record keeping requirements and the costs associated with those requirements. The notification rules were also confusing to both CPAs and the public. He stated that when Missouri eliminated notification and fee rules, the Missouri Board found that it freed up staff resources for public protection work such as monitoring CPE, monitoring peer review, and assisting in the complaint handling process.

Mr. Bishop stated that he would provide a brief explanation of the changes in the March 2007 version of the Section 23 language from the December 2006 version. He stated that after the release of the December 2006 Section 23 Exposure Draft, it was apparent that NASBA and the AICPA leadership had different and potentially conflicting interpretations of how firms were affected in the new mobility language. Based on the disparate interpretations, the leadership of NASBA and the AICPA met to discuss the differences and how to resolve them. The leadership of NASBA, the AICPA, and the UAA Committees reviewed concerns and adopted changes.

Mr. Bishop stated that he believed that the new language specifically addressed different scopes of practice. He additionally stated that the new language clarifies when firm registration is required. The AICPA initially believed that there should not be any firm registration requirement. The AICPA's position was that it wanted the new Section 23 language to be equally valuable to small firms or sole practitioners as it would be to large firms. Ultimately, NASBA and the AICPA came to agreement.

Mr. Bishop then provided a synopsis of what the new Sections 23, 7, and 14 intended to achieve. He stated that CPAs from substantially equivalent states or who individually meet the substantial equivalency requirements would be able to enter and practice in the visited state without notification or fee. This language was in the December 2006 Exposure Draft, and it had not changed. Mr. Bishop further stated that CPAs practicing through substantial equivalency would be subject to the jurisdiction of the visited state and must comply with the laws of the visited state.

In addition, Mr. Bishop stated that CPAs practicing through substantial equivalency and performing attest services or PCAOB engagements must do so only through a firm registered in the visited state. He further stated that the individual CPA associated with the firm must be either licensed in the state or considered to be substantially equivalent. He indicated that this was a change in that most states had a requirement that if a firm was registered in a state, there had to be a CPA licensed in that state that was associated with the firm. This changes the language to say that the firm has to be registered, but the CPA associated with that firm can be a CPA that is practicing through substantial equivalency. The AICPA had articulated a valid concern that without the language change, sole proprietors would be treated differently and arguably unfairly. The change in language gives the same privilege to a sole proprietor that is given to members of a larger firm.

Mr. Bishop added that before they changed the law in Missouri, they had problems with mobility. For example, if either the CPA or the client moved to a neighboring state, it was difficult for the CPA to continue to serve that client.

Mr. Bishop concluded by thanking the Board for the opportunity to highlight and clarify what the language of the new Section 23 does.

Mr. Swartz introduced Mr. Michael Ueltzen, a CPA in Sacramento that serves on the AICPA Mobility Task Force. Mr. Swartz stated that Mr. Ueltzen would present the AICPA's point of view and illustrate the differences between the AICPA and NASBA proposals.

Mr. Costello stated that the AICPA and NASBA had discussed their differences and that both organizations were in agreement with the revised Section 23 language.

Mr. Ueltzen reiterated that both organizations were in agreement and that he had provided a handout for consideration. **(See Attachment 11.)** He stated that 10 years ago, he was a member of the National Steering Committee, a joint committee of NASBA and the AICPA. At that time, the goal of the Committee was the implementation of the UAA. After joining the National Steering Committee, he made a presentation on Section 23 at a joint conference of the AICPA and NASBA. The goal of that conference was to have substantial equivalency implemented in 40 states by 2000. Today, only four states have implemented some form of substantial equivalency and the ability to cross borders.

Mr. Ueltzen stated that he would be presenting the results of his analysis and participation on the AICPA Mobility Task Force and would share his view as a practicing CPA in California. He stated that

he had a small CPA firm that files multi-state tax returns and practices in multiple states.

Mr. Ueltzen indicated that he believed the current system is not working and that CPAs inadvertently violate state laws because of the myriad of different rules and regulations. He stated that theoretically, a CPA should be licensed in 32 states if he or she files an individual tax return because many clients have multi-state tax returns. If a CPA files a business tax return, he or she should be licensed in 33 states. Ten states have a requirement that if a CPA teaches CPE, registration or licensure is required. Thirty states have a requirement that if a CPA is providing consulting services, registration or licensure is required. It also depends on how services are rendered. Twenty-five states have a rule that if the CPA or firm has a form of on-line presence, registration is required.

Mr. Ueltzen stated that he also practices as a forensic accountant. He stated that if he receives a call from a law firm in South Carolina to retain his services, at that moment in time, he would have begun practicing despite not being registered in South Carolina. He further stated that the ability to comply with different rules in different states with different interpretations is unduly burdensome. He stated that his firm has three staff that practice in Oregon. One individual with a bachelors degree was required to obtain a license that then required him to comply with the continuing education, ethics, and filing requirements in Oregon. He was able to obtain the Oregon license through reciprocity because he had been practicing for over 10 years. Another partner who has 150 hours of education was required to obtain a license because he did not follow the pathway accepted by Oregon. Mr. Ueltzen stated that he has 150 hours of education and a license in Nevada. He further stated that because he had a license in Nevada, a substantially equivalent state, he was only required to obtain a practice permit.

Mr. Ueltzen stated that a proposal from Colorado required that a CPA choose the six-month time period within a given year that he or she intended to practice. This would require the CPA to time his practice permit such that the CPA was covered for the period of time that the license was filed. He indicated that it is often difficult to forecast the filing of tax returns and that if the tax return was extended, the CPA would be in violation because he or she practiced outside of the filing window. In addition, the CPA cannot hold himself out as a CPA with a practice permit.

Mr. Ueltzen stated that Louisiana requires a license. If a CPA practices in Washington, the CPA is only required to obtain a practice permit if he is doing audit work, has a physical presence, and there is a percentage of work test requirement. In Ohio, a CPA is free to

come and go; there are no barriers and a practice permit is not required. Mr. Ueltzen admitted that his firm places three or four telephone calls over a period of time to determine the licensing or permit requirement of a given state. When the firm obtains the answer it is looking for, the finding is memorialized and the firm moves forward with its work.

Mr. Ueltzen stated that another element of non-workability is that there is sometimes a six-month delay for the CPA to obtain a permit or license. From a practical standpoint, a CPA cannot respond timely to a client's request for information and services without violating a state's laws. Mr. Ueltzen questioned whether all of this actually provided for consumer protection.

Mr. Ueltzen stated that under the proposed change, a CPA would be subject to a visiting state's regulations and must comply with that state's laws. There would also be a referral system in place such that if a visiting CPA violates state law, the state board of the visited state would be able to find the CPA and refer the case to the CPA's home state for discipline.

Mr. Ueltzen stated that California had a higher standard than some other states for a visiting CPA to obtain a practice privilege. The reason is that California requires that a CPA coming to the state to practice have 150 hours of education. Yet, an alternative pathway is available to California candidates to become licensed with 120 hours of education. Mr. Ueltzen indicated that he believed that in some respects, California had created an arbitrary artificial barrier.

Mr. Ueltzen then stated that he would share the work conducted by the AICPA Mobility Committee. The work included an in-depth analysis of current laws, rules, and regulations. The Committee compared the licensing of the CPA profession to other regulations. The Committee obtained input from stakeholder groups, NASBA, sole practitioners, small firms, and medium firms. Each of the different sized firms claimed that it had the greatest burden in terms of complying with the various laws. The national firm moves significant people across state lines. The small firm has to use its limited resources to determine the different laws and regulations. There are different dynamics; different complexity.

Mr. Ueltzen stated that the Committee developed the over-arching principles for a mobility model. The most significant principle was that the model must respect and protect the public interest. The model had to ensure uniform practice privileges in all jurisdictions and value the CPA certificate. In addition, it had to enable a credible enforcement process.

Mr. Ueltzen stated that once the over-arching principles were established, the Committee looked at criteria that would be workable. The criteria included no notification, no fees, and no additional requirements for peer reviews, CPE or ethics. Additionally, the licensee must agree to submit to automatic jurisdiction when practicing in other states.

Mr. Ueltzen stated that the Committee considered four alternative approaches. One of the approaches considered was the state-based mobility system. The Committee also considered a national system with multi-state licensing. Another approach considered was a state compact similar to what had occurred in Oklahoma and Missouri. Finally, the Committee looked at a federally mandated uniform state-based mobility system.

Mr. Ueltzen stated that the Committee originally dismissed the state-based system that is similar to today's amended UAA proposal. He stated that the national system with multi-state licensing would have established a national organization that would license CPAs. The national system would set the standards for examination, CPE, and ethics, and provide for a form of national disciplinary action. Mr. Ueltzen stated that the Committee determined that the state compact approach was not workable because it was dependent upon 54 jurisdictions coming to agreement on a single compact.

Mr. Ueltzen stated that the Committee's recommendation was a federally mandated uniform state-based mobility system. He stated that it would have required Congress to establish a national standard for a CPA or firm that consisted of two elements. It required that the licensee be in good standing from any state and be subject to automatic jurisdiction in whatever state he or she practiced. It would not require registration, and the licensing, enforcement, and discipline would remain with each state. Essentially, wherever the law was violated, the CPA would be subject to that state's laws.

Mr. Ueltzen stated that since that time, NASBA and the AICPA have agreed to the new UAA proposal. The handout includes a copy of the AICPA Board resolution that was passed and approved prior to the agreement regarding the UAA proposal. The resolution endorsed the continued efforts on a state-by-state basis to implement the UAA language. Additionally, the resolution indicated that the AICPA would delay pursuing the Committee's recommendation until such time that it determines that the implementation of Section 23 cannot be implemented. The AICPA Committee would then move to evaluate the state-based mobility system at a national level. Mr. Ueltzen reiterated that the AICPA believed that the best solution is implementation of the UAA. However, if the UAA proposal is

unsuccessful, the Institute is prepared to move forward with federal legislation.

Mr. Ueltzen stated that a big issue for California is that the state does not require 150 hours of education for licensure. Thus, California is not a substantially equivalent state, and California CPAs continue to experience problems when entering into substantially equivalent states.

Mr. Swartz asked if any one else wished to provide comments.

Mr. Hal Schultz, representing the California Society of CPAs (CalCPA), stated that protecting the public is the foundation of success for a profession based on trust. Therefore, when CalCPA looked at this proposal, it looked at it from the perspective of protecting the public. CalCPA would not support regulation that would allow non-compliant CPAs from other states to have free access to California and ruin the reputation of the state's CPA profession.

Mr. Schultz stated that through its substantial equivalency provisions, the UAA proposal ensures that out-of-state CPAs allowed to practice in California have met the appropriate licensing standards. Through the registration requirements in order for firms to perform audits of companies headquartered in California, this proposal ensures that additional safeguards are applied to the critical audit function.

Mr. Schultz further stated that under this proposal, when the Board expends resources on matters related to out-of-state CPAs, it is for the purpose of enforcement, not for collecting and filing notifications. Mr. Schultz stated that Mr. Bishop had described his experience in Missouri. Virginia and Ohio have had no notification procedures in place and both states report few problems. In those few cases, the states have not had any difficulty in locating the offending CPAs and taking the necessary action

Mr. Schultz stated that California has had a long tradition of temporary and incidental practice which it allowed out-of-state CPAs to practice in the state without any notification. During the process of developing the practice privilege program, there was no testimony that indicated that there had been any significant problems during that period of time.

Mr. Schultz concluded his comments by stating that CalCPA supported this proposal and encouraged the Board's favorable consideration and adoption.

Mr. Swartz asked if anyone else wished to provide comments, and with no response, opened the floor for questions and comments.

Mr. Swartz expressed concern regarding the level of consumer protection when states with no notification rules allow a CPA to enter that state to conduct an audit. Mr. Bishop stated that Missouri's current law requires that any attest function be issued through a firm registered in the state. Currently, Missouri's State Board and the Society are working on implementing a change to Missouri's law so that only audit would require full registration.

Mr. Driftmier stated that he believed that the review was the attest function.

Mr. Bishop further stated that NASBA did not alter the attest definition in any way and that the proposal specifically addresses requirements for conducting a review. He explained that under this proposal, if a CPA were conducting a review in a visited state, he or she would have to be qualified and legally able to perform the review in the home state. Additionally, the CPA would be required to follow the laws of the visited state. The proposal does not require a firm's registration, but the state's jurisdictional authority and their legal authority to that in another state are the same. Similarly, many times states link functions. For example, peer review is linked to attest functions. If an out-of-state CPA entered California from a state that did not have a peer review requirement in order to perform the review function, and California's law required peer review, the out-of-state CPA would need to comply with California's law and be enrolled in a peer review program.

Mr. Driftmier stated his firm prepares multi-state tax returns and that the UAA proposal does not address tax work in the UAA provisions. Mr. Driftmier inquired as to whether tax work would fall under the no notification rules.

Mr. Johnson stated that the amended UAA provisions state that a CPA must be qualified in his home state to perform those services even though he would not be required to register or provide notice in another state. Mr. Bishop stated that if a function is not specifically addressed in the amended UAA provisions, the interpretation is that if an out-of-state CPA enters another state to do tax work only, there would be no notification, no fee, no registration. The proposal states that a CPA entering a state for any engagement would need to comply with the laws of that state, would need to be legally able to perform that function in the home state, and would need to agree to be under that state's jurisdiction. The act of the CPA preparing a California tax return puts him under the jurisdiction of the California Board.

Ms. Chi stated that it was mentioned that there are over 15 states considering the adoption of the UAA provisions. Ms. Chi asked if

there was a projected timeframe for all states to have adopted the new provisions. Mr. Johnson stated that seven states would adopt the provisions this year and that seventeen states will have the provision ready for implementation in 2008. He further stated that in approximately two to three years, the majority of states would have adopted the provisions. Mr. Costello stated that it is important that the larger states such as California, New York, and Texas take the lead.

Ms. Chi stated that she was concerned that it would be costly for the California Board to locate a CPA with no notification rules.

Mr. Ueltzen stated that a client would know the name of the CPA because the CPA signs the tax return or audit. An address would be listed on the tax return or audit. Mr. Johnson stated that with regard to discipline, the CPA agrees that his home state Board will serve as agent for notice. He added that the visited state also has the right to pursue that individual in order to levee fines or to revoke the CPA's privilege to practice in that state.

Mr. Davila asked whether California would be able to revoke or suspend a visiting CPA's license in his home state. Mr. Davila stated that he believed that California would have to be able to affect a CPA's license in their home state. Mr. Johnson stated that the initial revocation would be their practice privilege in the State of California. The CPA's home state board would be obligated to take similar action. If a Maryland CPA has his practice privileges revoked in another state, it is automatic that Maryland would also revoke his license. However, not all states follow this practice. It is important that uniformity is established on a national basis. Mr. Costello stated that the requirement is written into the UAA provisions as "no escape."

Mr. Davila stated that one of his concerns is that states with fewer resources will not have the ability take disciplinary action. He stated that another concern relates to a CPA soliciting new business in the visited state. Mr. Bishop stated that one of the easiest cases for a state to act on is when another regulatory body has taken a disciplinary action first. Most states have laws that allow them disciplinary authority over a CPA that has been disciplined in another state. Mr. Bishop stated that soliciting new business in the visited state is not prohibited in the new UAA provisions. Mr. Swartz stated that the question comes from California's law which states that when a CPA is in California on a temporary basis, he cannot market his services to others or claim to be a California CPA. Mr. Johnson stated that the UAA provisions do not speak specifically about this issue.

Mr. Davila expressed concern regarding peer review. Mr. Johnson stated that if a firm performs an attestation engagement, audit, or examination perspective for mutual information, or PCAOB audits and

is not licensed in California, that firm must register in California. If California requires peer review, the firm must comply with those requirements even if they are different from their home state.

Mr. Blanc thanked the panel for its presentation. He indicated California has already enacted the provision that gives the Board jurisdiction over any act that is the practice of public accounting in the state of California. Mr. Blanc stated that it was his understanding that if this firm has a home office in California, then the firm must go through the registration process.

Mr. Blanc then requested a definition of "home office". Mr. Johnson stated that the home office is defined as corporate headquarters. Mr. Blanc stated that there could be multiple home offices. Mr. Bishop stated that whether or not a company has different home offices, when their audit is issued, the audit is issued to the home office. The firm must be registered in the state where the client has its home office to issue the audit. Mr. Iino indicated he believed the term "home office" needed clarification. He noted that it was especially unclear with regard to international companies.

Mr. Blanc asked if an out-of-state CPA or firm could engage in the marketing of tax shelters in California. Mr. Costello replied that an out-of-state CPA or firm could not engage in the marketing of tax shelters if it was prohibited under current California law.

Mr. Blanc expressed concern that California would not know if an out-of-state CPA or firm were not complying with California law such as CPE or the ethics examination. Mr. Ueltzen stated that a California consumer would report to the California Board that a CPA or firm was in violation of not complying with California laws.

Mr. Blanc inquired as to how the Board would monitor out-of-state CPAs regarding their compliance with California's CPE. Mr. Ueltzen states that the CPA is only required to comply with the home state's CPE requirements.

Mr. Swartz asked if a California CPA with only 120 hours could practice in another state. Mr. Bishop stated that the CPA that had 120 hours may not be individually substantially equivalent. However, if California's current law had the 150 hour requirement and the state adopted the UAA provisions, then the CPA with 120 hours would be recognized in any state because California would be a substantially equivalent state.

Dr. Charney expressed support for a national license for CPAs. Mr. Costello stated that NASBA does not support a federal mandate and believes states can come together to solve the problem.

Ms. Hariton expressed support for building in educational requirements that would enable a licensee to be knowledgeable regarding another state's public accounting laws.

Mr. Blanc suggested that NASBA develop a uniform form that could be completed on the Internet by CPAs requesting approval to engage in cross-border practice in a specific state. He further stated that NASBA could gather, compile, and edit the various state requirements for a notification form that would be available online. Further, NASBA would collect an appropriate fee to sustain its efforts. Mr. Johnson stated that he respected Mr. Blanc's recommendation but that he believed it did not accomplish the objective. Mr. Johnson reiterated that he believed that mobility would be adopted within the next three years.

Ms. Flowers stated that she is the only NASBA Board member who is not a CPA. She indicated that during Board meetings, mobility is a high priority. She added that she believed that whether or not California had notification, the Board would continue to be notified that a CPA requires disciplinary action only after a client has filed a complaint. She encouraged the Board to consider mobility.

Mr. Swartz stated that he believed that the only real franchise that CPAs have is the audit and believed that this proposal puts everybody on the same playing field. He added that there would be further discussion on this topic the next day.

2. Discussion Related to Cross-Border Issues.

Mr. Swartz indicated that the session was open for questions or comments.

Ms. Julie D'Angelo-Fellmeth with the Center for Public Interest Law (CPIL) at the University of San Diego School (USD) of Law stated that for the benefit of the new members, CPIL is a nonprofit, nonpartisan academic and advocacy program affiliated with the USD School of Law. CPIL has a long and active history of advocacy in the public interest before this Board and 25 other boards and before the Legislature related to occupational licensing agencies.

Ms. Fellmeth stated that she wanted to make a few comments on the mobility issue and on the revised exposure draft issued by NASBA. She stated that she had a different perspective than the NASBA and AICPA presenters and did not want Board members to be left with the notion that the no-notice provision is universally supported.

Ms. Fellmeth stated that there is public protection in the exposure draft. However, as Mr. Blanc previously stated, public

protection is primarily in the automatic "consent to jurisdiction" provisions, and these provisions were enacted last year in California.

Ms. Fellmeth stated that she respectfully opposed the "no-notice" and the "no-fee" provisions. One year ago, when this Board decided to support a bill that allowed any CPA from any state to provide "tax services" to Californians with no California license, no California practice privilege, and no California firm registration, she had stated then that the Board might as well abolish its entire licensing program.

Ms. Fellmeth stated that the purpose of licensing and the purpose of the notice requirement in the practice privilege laws is to enable the Board to ascertain that an out-of-state CPA is competent and honest before he or she offers services so as to prevent harm to the public. That is a basic and fundamental right of states, and it is one way in which states protect their citizens.

Ms. Fellmeth further stated that she was not surprised that no two states have enacted the UAA in the same way. California may well agree to allow out-of-state CPAs who are duly licensed by another state to practice without a California license. However, California should be entitled to notice so it can ensure that a CPA is duly licensed by another state and does not have any disqualifying conditions such as criminal convictions, indictments, or prior disciplinary action.

Ms. Fellmeth believed that for the same reason that the Legislature rejected the tax services provision last year, it is likely to reject a "no notice" provision this year or next year. She believed that the no-notice provision decreases public protection because it deprives the Board of the ability to stop unqualified and dishonest CPAs from practicing in California.

Ms. Fellmeth stated that the very small size of the Board's enforcement staff had been discussed many times before. It is clear that the Board does not have sufficient staff to police its own licensees, much less all the CPAs from other states who would be allowed to practice here without any pre-scrutiny by this Board. She questioned who would pay for the increased number of investigations and enforcement proceedings that would be necessary if California opens its borders.

Ms. Fellmeth stated that she did not disagree with the concepts that Mr. Costello had advanced, i.e., freeing up staff who are processing paperwork for redirection to the Enforcement Program. However, there is a fundamental difference between front-end licensing and back-end enforcement. The Board has a responsibility

to do both, and the Board cannot effectively do front-end public protection and prevention without notice.

Ms. Fellmeth noted that the NASBA and AICPA representatives spoke to the confusion of the "myriad" of state notification requirements. Ms. Fellmeth stated that she believed it is part and parcel of being a professional. Prevention of irreparable harm to consumers is a reason for the regulation of doctors, lawyers, and CPAs. This no-notice provision loses sight of that reason.

Ms. Fellmeth further stated that the NASBA and AICPA representatives indicated that the out-of-state CPA would be fully governed by California laws. When questioned, they clarified that it would not apply to California's continuing education laws, ethics course laws, or reportable events laws. Ms. Fellmeth asked how an out-of-state CPA would know what California laws he or she is subject to and how would the Board know when those laws are violated. She further questioned the ability of the Board to revoke an out-of-state CPA's license and the ability of the Attorney General's Office and Administrative Law Judges to revoke something that does not exist.

Ms. Fellmeth stated that although the exposure draft indicates that substantial equivalency is the backbone of revised Section 23, she believed that the UAA had been amended to grandfather into "substantial equivalency" all CPAs from all states regardless of whether the state's licensing requirements are substantially equivalent until about 2012. Ms. Fellmeth further stated that she believed the document would not prevent a state from substantially lowering its licensing standards.

Ms. Fellmeth indicated that the NASBA and AICPA presenters spoke about "no escape," but she noted that she did not see anything in the document that requires the home state to discipline the license if a licensee violates the law in a visited state.

Ms. Fellmeth concluded that there are a lot of problems with this proposal. It proposes to replace up-front licensing, or at least notice, with back-end enforcement but with no increased enforcement resources and the potential dilution of the Board's existing enforcement resources because the Board will need to spend more time on enforcement of out-of-state licensees. Ms. Fellmeth stated that this is not public protection and she urged the Board to think carefully as it moves forward.

Mr. Hal Schultz, representing the California Society of CPAs (CalCPA), stated that protecting the public is the foundation of success for a profession based on trust. Mr. Schultz reported that

CalCPA looked at this proposal from a public protection perspective, and CalCPA would not support regulation that would allow bad actors from other states to damage the reputation of the CPA profession in California. He stated that through its substantial equivalency provisions, this proposal provides that out-of-state CPAs allowed to practice in California have met appropriate licensing standards. Through the registration requirement for firms performing audits of companies headquartered in California, the proposal applies additional safeguards to audit quality.

Mr. Driftmier requested that Ms. Fellmeth explain her interpretation of the difference between the "no notification" proposal and California's current practice privilege program. Ms. Fellmeth stated that in the ideal world, Board staff would scrutinize practice privilege applications before out-of-state CPAs conducted work in California. She added this is not currently occurring because of a lack of staff resources. She indicated that she believed that the lack of staff resources should not drive this policy issue.

Dr. Charney requested that Ms. Fellmeth provide her interpretation of the "no-escape" provision in the Section 23 Exposure Draft. Ms. Fellmeth expressed her concern regarding the phrase "trusting others to investigate and enforce complaints" that is on page 31 of the Amended Exposure Draft dated March 2007. She indicated that some states have expressed a concern that the home states will not discipline its licensees for acts that occur in the visited states and that other states will have insufficient enforcement resources. Further, Section 10.A.2. provides that state boards can discipline their licensees based on revocation or suspension of a practice privilege by another state. Ms. Fellmeth added that the previous day's testimony indicated that the home state is required to take disciplinary action in the home state based on revocation or discipline of the practice privilege in a visited state. However, it is not a written requirement in the Section 23 language.

Mr. MacAloney inquired regarding the 150-hour educational requirement. Mr. Swartz stated that California has two tracks to licensure. He further indicated that he believed most California CPAs had 150 hours of education. Ms. Fellmeth stated that she disagreed that the majority of licensees have 150 hours of education. She further explained that the amount of general accounting experience a candidate is required to have is based on the amount of his or her education. If a candidate has 150 hours of education, equivalent to a Master's degree, only one year of general accounting experience is required for licensure. If a candidate has 120 hours of education, equivalent to a Bachelor's degree, two years of general accounting experience is required in order to become a CPA. She indicated that this was a policy decision that the California Legislature made in 2001

when it was not entirely confident that the 150-hour rule would contribute to more qualified CPAs or better pass rates on the CPA exam.

Dr. Charney stated that he believed there was an existing California statute that enabled an out-of-state CPA to serve a client that moved to California without notification. Ms. Fellmeth stated that Section 5054 allows an out-of-state CPA who does not obtain a practice privilege to prepare a tax return for a natural person who moved to California without notification.

Mr. Blanc stated that he wanted to mention the return of temporary and incidental practice. Ms. Fellmeth stated because of the perceived problems with California's practice privilege program, legislation passed last year reinstated a form of temporary and incidental practice. The legislation enables an out-of-state CPA to work in California temporarily incident to an engagement in their home state as long as the CPA does not hold himself out as a California CPA or solicit California clients.

Mr. Swartz thanked Ms. Fellmeth for her comments and asked the panel if there were any responses to those comments.

Mr. Costello stated that he believed that notification does not enhance public protection if the notifications are not being scrutinized.

Mr. Costello stated that NASBA believed that the vast majority of states require that if there is a disciplinary action taken in another state, that the home state must also take disciplinary action against its CPA. Mr. Blanc suggested that it might be appropriate to make it mandatory in the revision of Section 23 to require that the home state take disciplinary action against its CPA if a referral is received from another state. Mr. Bishop stated that the Uniform Accountancy Act requires that when one state board refers disciplinary action to a home state, the home state shall conduct an investigation. He further stated that it does not mandate that if California revokes a license that Arizona is required to revoke, but it does mandate that Arizona launch an investigation. Mr. Swartz inquired as to why the language would not indicate "shall" in the Section referred to by Ms. Fellmeth.

Mr. Bishop stated that Section 23 is an amendment to the total act of the UAA and is not the Section that would state that provision. He further indicated that the UAA language that requires a state to investigate when a referral is received from another state board would be provided to the California Board. Ms. Shari Bango, representing the AICPA, stated that the action is listed in general explanatory information, not the statutory provision referred to by Ms. Fellmeth.

Ms. Chi expressed concern regarding the outcome of the provision if it was not adopted by all states. Mr. Bishop stated that this was a legislative effort, and he would not want to guarantee what legislatures would do, but there had been strong movement toward the adoption of mobility. He further indicated that nine states had introduced legislative bills and six states had reached agreement between their societies and their state boards on language. Mr. Bishop pointed out that a lot of states that have not yet considered mobility have already adopted the disciplinary language of the UAA.

Ms. LaManna expressed concern that California may have a greater influx of non-California accountants practicing in the state. She inquired as to how California would cover the increased costs of enforcement if the out-of-state CPA was not required to register or pay a fee. Mr. Costello stated that he was not convinced that California would have a significant rush of people entering the state to practice under the "no-notification" rules that would lead to increased costs. Mr. Bishop stated that Missouri did not see an increase in the cost of investigations after its gradual transition from mobility with notification to no notification. Mr. Costello stated that if a state's costs rise, the CPA licensees would bear the increased fee, but the licensee would benefit from the ability to practice in other jurisdictions without having to file paperwork for notification. Mr. Ueltzen added that California also has a cost recovery program in place to cover the cost of investigations.

Mr. Swartz stated that he believed cross-border practice is a national issue because every state is different. It was his experience that most of the disciplinary action taken by this Board relates to California licensees. He indicated that if the proposal were enacted, there would not be a flood of incompetent CPAs coming to California.

Mr. Swartz observed that the process had been informative. He then indicated that the CPC and the Board would consider the cross-border practice issue at the May 2007 meetings.

C. ~~Consent Agenda.~~

~~**It was moved by Mr. Waldman, seconded by Dr. Charney, and unanimously carried to adopt the consent agenda. (See Attachment 12.)**~~

D. ~~Report on Exam Re-score and Re-reporting Issues Related to the Fourth Quarter 2006 (October-November 2006).~~

~~Ms. Sigmann reported that the Board of Examiners' (BOE) of the AICPA issued its final position on March 21, 2007. (See Attachment 13.) The Uniform CPA Examination re-score and re-reporting for the fourth quarter~~

**CALIFORNIA BOARD OF ACCOUNTANCY**

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**Attachment 2**

May 15, 2007

Andrew L. DuBoff, CPA, Chair
NASBA UAA Committee
National Association of State Boards of Accountancy
150 Fourth Avenue North – Suite 700
Nashville, TN 37219-2417

William Strain, CPA, Chair
AICPA UAA Committee
American Institute of Certified Public Accountants
1211 Avenue of the Americas
New York, NY 10036

Re: Amended Exposure Draft – Proposed Revisions to AICPA/NASBA Uniform Accountancy Act Sections 23, 7, and 14

Dear Messrs. DuBoff and Strain:

At its March 2007 meeting, the California Board of Accountancy (California Board) had the opportunity to hear presentations by David Costello and Ken Bishop representing NASBA and Michael Ueltzen representing the AICPA. They discussed the need to address problems related to mobility and introduced the California Board to the solution to those problems contained in the March 2007 Exposure Draft proposing revisions to Uniform Accountancy Act (UAA) Sections 23, 7, and 14.

At its meeting of May 10-11, 2007, the California Board, through its Committee on Professional Conduct, continued its consideration of the Exposure Draft and heard comments from Ken Bishop and Sheri Bango regarding key UAA provisions. I want to personally express our Board's appreciation for all of this valuable input from both NASBA and the AICPA related to the critical issue of mobility.

One outcome of our discussion at the May 2007 meeting is that the California Board is committed to further explore the possibility of allowing cross-border practice in California with no notification.

The California Board also has the following comments specific to the contents of the Exposure Draft:

- The California Board supports modifying the UAA to provide for cross-border practice with no notification. The California Board believes this approach should go hand-in-hand with NASBA's efforts to further develop its national licensee database. Information in NASBA's database will be useful to both state boards and consumers, and will mitigate the need to obtain licensee information through the notification process.
- The California Board supports the overarching principle that state boards should trust one another to appropriately license and appropriately discipline. This trust is fundamental to

facilitating the twin goals of consumer protection and enhanced mobility. A statement of this principle in the "comment" section of revised Section 23 would highlight this principle for state boards and others giving consideration to the UAA's revisions.

- The California Board is aware that the UAA contemplates a future in which an individual would be licensed only in the state of principal place of business. However, the current reality is that many practitioners are licensed in multiple states. Within this framework, the California Board is concerned that the UAA does not address how discipline by a state other than the state of principal place of business affects a practitioner's right to engage in cross-border practice. The California Board recommends that the UAA be modified to address this matter.
- The California Board is concerned regarding terminology which may be used inconsistently in the UAA. The California Board recommends that the meaning of terms such as "home office," "home state" and "state of principal place of business" be clarified and that the UAA be reviewed to ensure that these and other terms are used consistently throughout.
- The final concerns of the California Board relate to the revisions to Section 7 on firm registration. The California Board has both a specific and a general concern. With regard to the specific provisions, the California Board does not support separating audits and reviews in the firm registration requirements and believes the same requirements should apply to both of these attest services. Also, the California Board has a general concern regarding the complexity of the firm registration provisions. We in California have had extensive recent experience communicating proposed statute changes to the California Legislature, and are concerned that the sheer complexity of these provisions may make them difficult for state boards to understand and state legislatures to enact.

Thank you for this opportunity to express our views regarding the Exposure Draft. Once again, thank you for the support provided by both NASBA and the AICPA to assist us in our deliberations. Should you have any question, please contact Carol Sigmann, Executive Officer, at (916) 561-1718.

Cordially,



David L. Swartz, CPA
President

c: Sheri Bango Caveney, AICPA
Louise Dratler Haberman, NASBA
Members, California Board of Accountancy

**Excerpts Related to Eliminating the Notification Requirement
from the May 2007
OVERVIEW AND DISCUSSION
OF THE AMENDED EXPOSURE DRAFT – PROPOSED REVISIONS
TO THE AICPA/NASBA UNIFORM ACCOUNTANCY ACT SECTIONS 23, 7, AND 14.**

The presenters at the March 2007 Board meeting expressed support for eliminating notification. Some of the arguments advanced in favor of this approach were:

- To be responsive in today's business environment and to facilitate consumer choice, there is a need to ease the restrictions on cross-border practice created by the current system of state-based regulation.
- Because of the lack of uniformity among states and the fees involved, notification is burdensome for practitioners.
- Notification is not necessary to protect consumers since enforcement activities are complaint-driven and the consumer knows the identity of the CPA who caused harm and can communicate this information to the state board. ("Back-end controls.")
- Notification is not necessary for jurisdiction, which is automatic under the proposed revisions to the UAA (and also under California law).
- Notification adds to the workload of state boards and is unnecessary record-keeping. Without notification, staff can be redirected to enforcement functions which are more important for consumer protection.
- State boards that permit cross-border practice without notification have not had problems taking disciplinary action. (The Missouri experience was provided as an example by Ken Bishop at the March 2007 Board meeting.)
- When the Board permitted temporary/incidental practice prior to enactment of the practice privilege requirements, there was a lack of evidence of consumer harm.
- State boards should trust their counterparts in other states to appropriately license and appropriately discipline. When state boards trust one another, notification is nothing more than unnecessary paperwork.
- Specific to California, eliminating the notification requirement would also obviate the need for the exceptions to the practice privilege requirements that have been confusing to apply – temporary practice (Business and Professions Code Section 5050(b) and tax returns for natural persons (Business and Professions Code Section 5054).

At the March 2007 Board meeting as well as earlier when the Practice Privilege Program was being developed, several arguments were advanced in support of requiring notification:

- Notification is necessary so that the state board of the visited state can check and make sure a practitioner engaged in cross-border practice is duly licensed and has not been disciplined or convicted of a crime. This “front end” control is essential for consumer protection.
- Notification is necessary so that consumers, by looking on a board’s Website or otherwise contacting the board, are informed regarding a practitioner’s qualifications and can make an informed decision.
- Notification is necessary because the notification form and the on-line updating process provide a mechanism for self-reporting. Enforcement actions in California are initiated based on self-reported information as well as consumer complaints. Eliminating the notification process would impact the ability of the Enforcement Program to receive and utilize this information for consumer protection.
- Notification is necessary so that practitioners engaged in cross-border practice are informed regarding the laws and requirements of the visited state. Compliance with the laws and rules of the visited state is required under Section 23 and California law. California’s notification form lays out the requirements and also provides the Board with contact information so that additional information can be communicated to practice privilege holders. Without notification, licensees engaged in cross-border practice would bear the full burden of educating themselves regarding the requirements of each of the states in which they practice.
- Notification is necessary because state boards cannot rely fully on “back end” controls for consumer protection. The jurisdiction provisions are largely untried and untested, and implementing procedures have not yet been developed.
- Eliminating notification would not allow this Board to re-direct practice privilege staff to enforcement activities as has been suggested. California’s budgeting procedures require that when a program is eliminated the staffing for that program is also eliminated.
- The absence of complaint data related to the old temporary/incidental practice provision in California does not demonstrate an absence of consumer harm. At that time, because of the lack of clear jurisdiction, consumers were generally directed to register their complaints with the state board of the practitioner’s home state.
- When the Board proposed the Practice Privilege Program to the Legislature, the old temporary/incidental practice provision was characterized as a weakness in the law because it allowed an out-of-state CPA to temporarily practice without the knowledge and outside the disciplinary authority of the Board. The Practice Privilege Program was developed to address this concern.

(Prepared May 2007)

**CALIFORNIA ACCOUNTANCY ACT
SECTION 5054**

5054. (a) Notwithstanding any other provision of this chapter, an individual or firm holding a valid and current license, certificate, or permit to practice public accountancy from another state may prepare tax returns for natural persons who are California residents or estate tax returns for the estates of natural persons who were clients at the time of death without obtaining a permit to practice public accountancy issued by the board under this chapter or a practice privilege pursuant to Article 5.1 (commencing with Section 5096) provided that the individual or firm does not physically enter California to practice public accountancy pursuant to Section 5051, does not solicit California clients, and does not assert or imply that the individual or firm is licensed or registered to practice public accountancy in California. (b) The board may, by regulation, limit the number of tax returns that may be prepared pursuant to subdivision (a).

Assembly Bill No. 1868

CHAPTER 458

An act to amend Sections 5050 and 5134 of, to add Sections 5035.3, 5050.1, 5050.2, 5096.13, 5096.14, and 5096.15 to, and to add and repeal Section 5096.12 of, the Business and Professions Code, relating to accountancy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2006. Filed with
Secretary of State September 25, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1868, Bermudez. Accountancy: licensure.

Existing law provides for the licensing and regulation of accountants by the California Board of Accountancy in the Department of Consumer Affairs. Existing law prohibits a person from engaging in the practice of public accountancy in this state unless he or she holds either a valid permit issued by the board or a practice privilege, as specified. A violation of this provision is a crime.

This bill would provide that the prohibition against practicing accountancy in California without a license does not apply to a person who holds a valid and current license, registration, certificate, permit, or other authority to practice public accountancy from a foreign country to the extent that he or she is temporarily practicing in this state incident to an engagement in that country, provided that the temporary practice is regulated by the foreign country and performed under the accounting or auditing standards of that country and that the person does not hold himself or herself out as being the holder of a California license or practice privilege. The bill would also, until January 1, 2011, provide that the prohibition against practicing accountancy in California without a license does not apply to a certified public accountant, a public accountant, or a public accounting firm lawfully practicing in another state to the extent that the practice is temporary and incident to practice in that state, provided that the person or firm does not solicit clients in California, does not assert or imply licensure in California, and does not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction.

Existing law authorizes an individual whose principal place of business is not in California 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 California under a practice privilege if certain conditions are met, including notification to the board of intent to practice.

This bill would, until January 1, 2011, permit a certified public accounting firm authorized to practice in another state that does not have an office in this state to practice public accountancy in California through the holder of a practice privilege if certain conditions are met. The bill would require a notification of intent to practice under a practice privilege to include the name of the firm, its address and telephone number, and its federal taxpayer identification number.

This bill would provide that a person who engages in accountancy in California is deemed to have consented to the jurisdiction of the board and is deemed to have appointed the regulatory agency of his or her state or foreign jurisdiction as the person's agent for a service of process in actions or proceedings by or before the board. The bill would, until January 1, 2011, authorize the board to revoke, suspend, issue a fine, or otherwise restrict an authorization to practice granted to a foreign accounting firm or discipline the holder of that authorization for any act that would be a violation of, or would be grounds for discipline against a licensee or holder of a practice privilege or denial of an accountancy license or practice privilege under, the Business and Professions Code. The bill would allow an application for reinstatement to practice, as specified, and would allow the board to administratively suspend an authorization to practice. The bill would also require the board to amend certain regulations, as specified.

Existing law sets specified fees to be charged by the board, including an annual fee for a practice privilege to be fixed by the board at up to 50% of the biennial renewal fee for an accountant.

This bill would instead require an annual fee for a practice privilege with an authorization to sign attest reports to be set by the board at up to \$125, and for a practice privilege without an authorization to sign attest reports at up to 80% of that fee. The bill would declare the intent of the Legislature that the board adopt emergency regulations providing for a lower fee or no fee for out-of-state accountants who do not sign attest reports for California clients under the practice privilege, as long as the practice privilege program is adequately funded.

Because this bill may increase fees deposited into the Accountancy Fund, a continuously appropriated fund, it would make an appropriation.

Because this bill would subject additional persons to requirements within the accountancy licensing provisions, the violation of which are a crime, and because the bill would create new requirements and prohibitions within the licensing provisions, the violation of which would be a crime, it would impose a state-mandated local program.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

This bill would incorporate additional changes in Section 5134 of the Business and Professions Code proposed by SB 503, to be operative only if SB 503 and this bill are both chaptered and become effective on or before January 1, 2007, but this bill becomes operative first, both bills amend Section 5134 of the Business and Professions Code, and this bill is chaptered last.

Appropriation: yes.

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

SECTION 1. Section 5035.3 is added to the Business and Professions Code, to read:

5035.3. For purposes of subdivision (b) of Section 5050 and Sections 5054 and 5096.12, "firm" includes any entity that is authorized or permitted to practice public accountancy as a firm under the laws of another state.

SEC. 2. Section 5050 of the Business and Professions Code is amended to read:

5050. (a) Except as provided in subdivisions (b) and (c) of this section, in subdivision (a) of Section 5054, and in Section 5096.12, no person shall engage in the practice of public accountancy in this state unless the 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 (commencing with Section 5096).

(b) Nothing in this chapter shall prohibit a certified public accountant, a public accountant, or a public accounting firm lawfully practicing in another state from temporarily practicing in this state incident to practice in another state, provided that an individual providing services under this subdivision may not solicit California clients, may not assert or imply that the individual is licensed to practice public accountancy in California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction, as defined in subdivision (c) of Section 19753 of the Revenue and Taxation Code. A firm providing services under this subdivision that is not registered to practice public accountancy in California may not solicit California clients, may not assert or imply that the firm is licensed to practice public accountancy in California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction, as defined in subdivision (c) of Section 19753 of the Revenue and Taxation Code. This subdivision shall become inoperative on January 1, 2011.

(c) Nothing in this chapter shall prohibit a person who holds a valid and current license, registration, certificate, permit, or other authority to practice public accountancy from a foreign country, and lawfully practicing therein, from temporarily engaging in the practice of public

accountancy in this state incident to an engagement in that country, provided that:

(1) The temporary practice is regulated by the foreign country and is performed under accounting or auditing standards of that country.

(2) The person does not hold himself or herself out as being the holder of a valid California permit to practice public accountancy or the holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096).

SEC. 3. Section 5050.1 is added to the Business and Professions Code, to read:

5050.1. (a) Any person that engages in any act that is the practice of public accountancy in this state consents to the personal, subject matter, and disciplinary jurisdiction of the board. This subdivision is declarative of existing law.

(b) Any person engaged in the practice of public accountancy under subdivision (a) is deemed to have appointed the regulatory authority of the state or foreign jurisdiction that issued the person's permit, certificate, license or other authorization to practice as the person's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by or before the board against or involving that person.

SEC. 4. Section 5050.2 is added to the Business and Professions Code, to read:

5050.2. (a) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the holder of an authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 for any act that would be a violation of this code or grounds for discipline against a licensee or holder of a practice privilege, or ground for denial of a license or practice privilege under this code. 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 to this section. Any person whose authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 has been revoked may apply for reinstatement of the authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (b) of Section 5054, or Section 5096.12 not less than one year after the effective date of the board's decision revoking the authorization to practice unless a longer time, not to exceed three years, is specified in the board's decision revoking the authorization to practice.

(b) The board may administratively suspend the authorization of any person to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 for any act that would be grounds for administrative suspension under Section 5096.4 utilizing the procedures set forth in that section.

SEC. 5. Section 5096.12 is added to the Business and Professions Code, to read:

5096.12. (a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) This section shall become inoperative on January 1, 2011, and as of that date is repealed.

SEC. 6. Section 5096.13 is added to the Business and Professions Code, to read:

5096.13. The notification of intent to practice under a practice privilege pursuant to Section 5096 shall include the name of the firm, its address and telephone number, and its federal taxpayer identification number.

SEC. 7. Section 5096.14 is added to the Business and Professions Code, to read:

5096.14. The board shall amend Section 30 of Article 4 of Division 1 of Title 16 of the California Code of Regulations to extend the current "safe harbor" period from December 31, 2007, to December 31, 2010.

SEC. 8. Section 5096.15 is added to the Business and Professions Code, to read:

5096.15. It is the intent of the Legislature that the board adopt regulations providing for a lower fee or no fee for out-of-state accountants who do not sign attest reports for California clients under the practice privilege. These regulations shall ensure that the practice privilege program is adequately funded. These regulations shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and, for purposes of that chapter, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

SEC. 9. Section 5134 of the Business and Professions Code is amended to read:

5134. 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 nine 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 nine 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). (1) On and after the enactment of Assembly Bill 1868 of the 2005–06 Regular Session, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 with an authorization to sign attest reports shall be fixed by the board at an amount not to exceed one hundred twenty-five dollars (\$125).

(2) On and after enactment of Assembly Bill 1868 of the 2005–06 Regular Session, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 without an authorization to sign attest reports shall be fixed by the board at an amount not to exceed 80 percent of the fee authorized under paragraph (1).

(j) 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) 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) 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) 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.

SEC. 10. Section 5134 of the Business and Professions Code is amended to read:

5134. 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 not to exceed six hundred dollars (\$600). The board may charge a reexamination fee 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 not to 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 not to 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 not to 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 not to 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 nine months of annual authorized expenditures. Any increase in the renewal fee shall be made by regulation upon a determination by the board that additional moneys are required to fund authorized expenditures and maintain the board's contingent fund reserve balance equal to nine 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) (1) On and after the enactment of Assembly Bill 1868 of the 2005-06 Regular Session, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 with an authorization to sign attest reports shall be fixed by the board at an amount not to exceed one hundred twenty-five dollars (\$125).

(2) On and after enactment of Assembly Bill 1868 of the 2005-06 Regular Session, the annual fee to be charged an individual for a practice privilege pursuant to Section 5096 without an authorization to sign attest reports shall be fixed by the board at an amount not to exceed 80 percent of the fee authorized under paragraph (1).

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

(l) It is the intent of the Legislature that, to ease entry into the public accounting profession in California, any administrative cost to the board related to the certified public accountant examination or issuance of the certified public accountant certificate that exceeds the maximum fees authorized by this section shall be covered by the fees charged for the biennial renewal of the permit to practice.

SEC. 11. Section 10 of this bill incorporates amendments to Section 5134 of the Business and Professions Code proposed by both this bill and SB 503. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, but this bill becomes operative first, (2) each bill amends Section 5134 of the Business and Professions Code, and (3) this bill is enacted after SB 503, in which case Section 5134 of the Business and Professions Code, as amended by Section 9 of this bill, shall remain operative only until the operative date of SB 503, at which time Section 10 of this bill shall become operative.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that accountants licensed by another jurisdiction be permitted to lawfully provide services to their clients in California as soon as possible, it is necessary that this bill take effect immediately.

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