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DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY

FINAL

MINUTES OF THE January 21, 2005 BOARD MEETING

The Fairmont San Jose
170 South Market Street
San Jose, CA 95113
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I. Call to Order.

President Renata M. Sos called the meeting to order at 8:03 a.m. on Friday, January 21, 2005, at the Fairmont Hotel in San Jose and ALJ Cohn and the Board heard Agenda Items XI.A.-C. The Board then convened into closed session to deliberate and consider Agenda Items X.E.-H. The Board reconvened into open session at 11:10 a.m. The Board broke for lunch at 12:45 p.m. and reconvened at 1:40 p.m. The Board adjourned at 3:50 p.m.

Board Members	January 21, 2005
Renata M. Sos, President	8:03 a.m. to 3:50 p.m.
Ronald Blanc, Vice President	8:03 a.m. to 3:50 p.m.
Sally A. Flowers, Secretary-Treasurer	8:03 a.m. to 2:00 p.m.
Richard Charney	8:03 a.m. to 3:50 p.m.
Ruben Davila	8:15 a.m. to 3:50 p.m.
Donald Driftmier	8:03 a.m. to 3:50 p.m.
Charles Drott	Absent
Sara Heintz	8:03 a.m. to 3:50 p.m.
Gail Hillebrand	8:03 a.m. to 3:50 p.m.
Thomas Iino	8:03 a.m. to 3:50 p.m.

Clifton Johnson	8:03 a.m. to 3:50 p.m.
Olga Martinez	8:03 a.m. to 3:50 p.m.
David Swartz	8:03 a.m. to 3:50 p.m.
Stuart Waldman	Absent

Staff and Legal Counsel

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

Committee Chairs and Members

Roger Bulosan, Vice Chair, Qualifications Committee
Nancy Corrigan, Chair, Qualifications Committee
Harish Khanna, Chair, Administrative Committee

Other Participants

Tom Chenowith
Mike Duffey, Ernst & Young LLP
Doreathea Johnson, Deputy Director Legal Affairs, Department of Consumer Affairs
Arthur Kroeger, Society of California Accountants (SCA)
Richard Robinson, Big 4 Accounting Firms
Jeannie Tindel, California Society of Certified Public Accountants (CalCPA)
Sarah Weber, Center for Public Interest Law (CPIL)

II. Board Minutes.

A. Draft Board Minutes of the November 19, 2004, Board Meeting.

The draft minutes of the November 19, 2004, Board meeting were adopted on the Consent Agenda. (See Agenda Item XII.B.)

III. Report of the President.

Ms. Sos welcomed Ms. Doreathea Johnson, Deputy Director of Legal Affairs at the Department of Consumer Affairs (DCA) and thanked her for

Board. Mr. Swartz indicated that any revisions would require a statutory change and, in light of the Governor's proposal, EPOC decided not to devote resources at this time to expand the list of substantially related acts, but it recommended that this issue be revisited in a year.

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

1. Minutes of the November 18, 2004, Practice Privilege Task Force Meeting.

   The minutes of the November 18, 2004, Practice Privilege Task Force meeting were adopted on the Consent Agenda. (See Agenda Item XII.B.)

2. Report on the January 20, 2005, Practice Privilege Task Force Meeting.

   Ms. Hillebrand reported that the Task Force met the previous day and considered the following issues.

3. Consideration of Proposed Fine Amounts.

   a. Payment not Received or Returned for Insufficient Funds.

      Ms. Hillebrand indicated that the factors listed in Section 95.3 will be given consideration in determining the fine amounts.

      i. First-Time Offenders.

         Ms. Hillebrand reported that staff recommended a fine range of $100 to $500 for individuals who do not submit the practice privilege notification fee either within the 30 days, or if the check is dishonored.

      ii. Repeat Offenders.

         Ms. Hillebrand reported that a fine range of $250 to $1,000 was recommended by staff for any subsequent occurrence of failure to pay or attempting to pay with a check that is dishonored.

         It was moved by Mr. Johnson, seconded by Mr. Iino, and carried to adopt the Task Force's recommendation with a cross-reference to Section 95.3 of the current

Accountancy Regulations on Citation Factors. Ms. Flowers was temporarily absent.

b. Late Notification Submission.

Ms. Hillebrand reported that staff provided a recommendation of a fine range of $250 to $5,000 for late notification submissions and that the Citation Factors in Section 95.3 also be used in determining these fine amounts.

c. Failure to Report Changes to the Information in the Notification Timely.

Ms. Hillebrand reported that staff provided a recommendation of a fine range of $250 to $5,000 for failure to report changes to the information in the notification timely, and that the Citation Factors in Section 95.3 also be used in determining these fine amounts.

d. Failure to Respond to Board Inquiry.

Ms. Hillebrand reported that staff provided a recommendation of a fine range of $250 to $5,000 for failure to respond to Board inquiry, and that the Citation Factors in Section 95.3 also be used in determining these fine amounts.

It was moved by Ms. Sos, seconded by Mr. Johnson, and carried to adopt the Task Force's recommendation related to agenda items VIII.F.3.b-d. Ms. Flowers was temporarily absent.

4. Proposal Specifying a Fine Amount for the Disqualifying Condition Exemption.

Ms. Hillebrand indicated that the Task Force recommended deleting the reference to administrative fines as an exception to the disqualifying conditions, but retaining the reference to continuing education. (See Section 32(c)(2)(A) in **Attachment 11.)** Only one state reported that they issue any type of administrative fine for minor violations.

This recommendation was included in the motion under Agenda Item VIII.F.5.

5. Consideration of Final Regulations.

Ms. Hillebrand reported that the Task Force was recommending the version of the regulations that appears in the agenda packet as Attachment 2 **(see Attachment 12).** It is a streamlined version that includes the Notification Form, and includes language to allow the Board to have an electronic on-line form as well as the paper form. Ms. Hillebrand indicated that the Task Force made the following edits.

- Section 28 should include a statement that the text of the electronic and the hardcopy notification forms are identical.
- A provision will be added to Section 29 to indicate that the submission date of the notification form will be the date of the on-line submission or the postmark date for the hardcopy form submitted by mail.
- Section 32(c)(2)(A) will be updated to reflect the action of the Task Force determining not to exempt violations resulting in a fine of a specified amount from being a disqualifying condition.
- Fine amounts will be added to the regulations with a cross-reference to Section 95.3.

Ms. Hillebrand noted that a section of the regulations related to the procedure for administrative suspension was not written yet. Mr. Granen indicated that, in light of due-process concerns, consideration needs to be given to formalize the process so there are clear procedural safeguards.

Mr. Robinson agreed with Mr. Granen that the administrative suspension piece should be in regulation. He indicated that it would be non-controversial and could proceed as an emergency regulation. The current temporary practice provisions will sunset on January 1, 2006, so it is important to have all of the practice privilege regulations in place by then.

Ms. Powell indicated that the Board could approve a regulation mirroring the language in the statute in order to include it with the other proposed regulations. Then the Board could refine it at the March Board meeting and issue a 15-day renotice providing the revised text. Ms. Crocker suggested delegating the responsibility to Mr. Granen and Ms. Hillebrand to draft the language and incorporate it into the current draft regulations prior to February 18, 2005. Ms. Hillebrand indicated that it was important for the Board to understand the concept. The concept was to develop a simple procedure to provide for due process while retaining the Executive Officer's authority to issue an administrative suspension.

It was moved by Ms. Hillebrand, seconded by Mr. Swartz, and carried to adopt the draft regulations as described in Attachment 2 with the modifications described above plus the addition of language to be developed by the Task Force Chair, staff, and legal counsel to create an administrative suspension procedure. In addition, the regulations would include the fine amounts and cross-reference to the existing Section 95.3. Ms. Flowers was temporarily absent.

a. Report Findings from OAL Regarding the Form in the Regulations.

   Ms. Hillebrand reported that at the last meeting an issue had come up regarding whether the actual form needed to be included in the regulations or whether it could be incorporated by reference. There were also issues as to how to reference the electronic form. OAL indicated that language can be included in the regulations referencing the electronic form as long as that form is identical in content to the paper form.

6. Consideration of Final Notification Form.

   Ms. Hillebrand reported that there were several versions of the form in the agenda packet, and it had been revised to include modifications made at the Task Force meeting the previous day. **(See Attachment 13.)**

   The recommended revisions consisted of:

   - Placing boxes on Qualification Requirements 1 and 3.
   - Removing the specified fine amount from disqualifying condition B(1).
   - Adding disqualifying condition language to be consistent with Regulation Section 32(c)(7), which was placed before the last disqualifying condition statement.
   - Adding the statement *"An answer of No to any of the following statements does not disqualify you from proceeding with the California practice privilege process."* to ensure practice privilege holders understand the questions included on the Notification form are for statistical purposes and will not preclude them from the practice privilege.
   - The Required Additional Information section was moved below the Disqualifying Conditions section.
   - The ending statement was edited to read *"Your practice privilege expires at the end of one year."* and remove the wording from the

date of this notice to reflect the changes made to the regulations regarding the submission date.

This recommendation was included in the motion under Agenda Item VIII.F.5.

a. Licensee Comments and Responses to Evaluation of Notification Form.

Ms. Hillebrand reported that with the assistance of Ms. Tindel of CalCPA, the form was sent out for evaluation and the responses from licensees have been incorporated to make the form clearer and easier to use.

7. Discussion of Possible Questions for Q&A Related to Practice Privilege.

Ms. Hillebrand requested that Board members and members of the public provide their questions to staff. This item will be discussed at the March Board meeting.

Ms. Sos echoed comments made by Ms. Hillebrand as to the quality of staff work related to this Task Force throughout the last year. She indicated that Ms. Franz, Ms. Walker, and Ms. Wong are owed many thanks for their work.

G. Peer Review Task Force.

No report.

IX. Appeals – Personal/Written.

A. Written Professional Conduct and Ethics (PC&E) Appeal - Leonard E. Aron.

Ms. Franz reported that Ms. Walker was available to answer any technical questions related to the license renewal process. In addition to staffing the Practice Privilege Task Force, she also serves as the renewal analyst.

Ms. Franz reported that the substance of this appeal was that Mr. Aron disagrees with the Board's interpretation of Regulation Section 87.7 that specifically relates to the timeframes for completing Professional Conduct and Ethics (PC&E). Under current regulations, licensees are required to complete eight hours of PC&E every six years for license renewal. In regulation, it further requires that the PC&E course be

State of California Department of Consumer Affairs

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Practice Privilege TF Agenda Item I
January 20, 2005

Board Agenda Item VIII.F.1
January 21, 2005

PRACTICE PRIVILEGE TASK FORCE
MINUTES OF THE MEETING
November 18, 2004

DRAFT

Crowne Plaza Los Angeles Airport Hotel
5985 West Century Boulevard
Los Angeles, CA 90045

CALL TO ORDER

Renata Sos, Chair, called the meeting of the Practice Privilege Task Force to order at 1:00 p.m. and welcomed the participants. Ms. Sos indicated that to ensure compliance with the Bagley-Keene Open Meeting Act, when a quorum of the Board is present at this meeting (eight members of the Board), Board members who are not serving on the Task Force must attend as observers only.

Present:
Renata Sos, Chair
Sally Flowers
Gail Hillebrand
Thomas Iino
Harold Schultz
Ian Thomas

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

Other Participants
Bruce Allen, California Society of Certified Public Accountants
Tom Chenowith
Julie D'Angelo Fellmeth, Center for Public Interest Law

Michael Duffey, Ernst and Young LLP
Katie Gould, Society of California Accountants
Harish Khanna, Administrative Committee Chair
Richard Robinson, Richard Robinson and Associates
Norma Nick Taylor, California Society of Accounting and Tax Professionals
Jeannie Tindel, California Society of Certified Public Accountants
Sarah Weber, Center for Public Interest Law

Board Members Observing
Ronald Blanc
Richard Charney
Ruben Davila
Donald Driftmier
Clifton Johnson
Olga Martinez

I. Minutes of the October 5, 2004, Meeting

Ms. Granick indicated that the minutes of the October 5, 2004, meeting needed to be corrected to say "Minutes of the September 9, 2004, Meeting" and not "Minutes of the July 15, 2004, Meeting." **It was moved by Mr. Iino, seconded by Ms. Flowers, and unanimously carried to approve the minutes of the October 5, 2004, meeting with the correction suggested by Ms. Granick.**

II. Consideration of Method for Verification of Attest Experience Through Random Audit

Ms. Sos called the Task Force's attention to the November 8, 2004, memo from Ms. Franz (Attachment 1). Ms. Sos indicated that, at the last meeting, the Task Force had discussed the process of auditing notification forms and concluded that a randomly selected 25 percent sample would be audited. For the audit, five pieces of information would be requested from the board of accountancy in the licensee's home state: the licensee's address or record, certification of license status, certification that the home state's continuing education requirements for renewal had been met, information indicating whether there had been any discipline against the license, and information indicating whether the licensee is authorized to sign attest reports in his or her home state.

Ms. Sos added that the Task Force had discussed whether practice privilege holders who indicate they want to sign attest reports should, as part of the audit process, provide additional information related to their qualifications, for example information regarding whether they had completed the requisite 500 hours of attest experience. She noted that the Task Force had asked Ms. Franz to draft a document that could serve as additional verification, taking into consideration that the form used for licensure applicants may not be suitable for people who have been practicing public accounting for 20 years.

Ms. Franz indicated that the form was designed to be very simple and to incorporate in Items 1-5 the elements that are required by Board Regulation Section 12.5. She added that the box at the bottom related to the licensee's most recent 500 hours of experience was optional and was for information gathering purposes only. During the discussion, participants questioned the necessity for and benefit of the box at the bottom. Also during the discussion, Ms. D'Angelo Fellmeth suggested that the word "attest" be added before the word "experience" in the certification. **It was then moved by Ms. Flowers, seconded by Ms. Sos, and unanimously carried to approve the form with the deletion of the box at the bottom and the insertion of the word "attest" as suggested by Ms. D'Angelo Fellmeth.**

III. Consideration of Draft Regulations.

Ms. Sos indicated that the Task Force had made all of the policy decisions necessary to create the framework for practice privileges and had implementing regulations before it for consideration (see Attachment 2). The intent of the regulations was to make the requirements simple and obvious and to not erect any unnecessary hurdles. She noted that the time line was to discuss the draft regulations at this meeting, review the revisions to the regulations and provide them for Board approval in January, and hold a public hearing at the May 2005 Board meeting. Ms. Sos then suggested that the Task Force discuss the draft regulations sequentially.

Section 24. License or Practice Privilege Needed.
Ms. Sos noted that Section 24 was intended to clarify that if an individual wants to practice in California, there are only two options: obtain a practice privilege or obtain a California license. Ms. Sos indicated that, after reviewing Section 5050, she questioned whether Section 24 was necessary.

Ms. Granick indicated that Section 24 was drafted to address questions from licensees regarding when a practice privilege is needed. For example, if the licensee only does one California tax return, is a practice privilege needed? Mr. Granen indicated that there is a national debate occurring regarding whether a licensee should be required to obtain a practice privilege to continue preparing a client's tax returns after that client moves to another state. Ms. Sos indicated these questions are important, but could be addressed by developing "Frequently Asked Questions" rather than by adopting regulations. Ms. Hillebrand indicated she would like the Task Force to develop these questions and answers concurrently with working on the regulations.

Ms. Hillebrand also indicated she believed Section 24 restates the statute, and she would prefer not to take this approach. Mr. Schultz concurred with Ms. Hillebrand and indicated he believed the statute was clearer. **It was then moved by Ms. Sos, seconded by Mr. Schultz, and unanimously carried to strike Section 24 and to direct staff to concurrently begin developing questions and answers related to practice privileges.**

Section 25. Qualification for and Term of the Practice Privilege.
Ms. Sos indicated that subsection (a) provided three bases for substantial equivalency and paragraph (a)(2) set forth the Board's policy decision to accept CredentialNet evaluations. Subsection (b) provided for sunset and safe harbor. Paragraph (d) was included to make clear to an individual who enters under a CredentialNet determination which state is his or her home state for purposes of complying with other practice privilege requirements.

Ms. Sos suggested the following revisions to subsection (a): replace the word "qualifications" with "requirements"; add a semicolon at the end or paragraph (1); and add a semicolon followed by the word "or" at the end of paragraph (2). Ms. Hillebrand suggested beginning subsection (a) with the words "In addition to the other requirements set forth in Business and Professions Code Section 5096 and as noted in Section 27" to clarify that the requirements in paragraphs 1, 2, and 3 are not the only requirements for a practice privilege. **It was then moved by Ms. Hillebrand, seconded by Ms. Sos, and unanimously carried to approve Subsection (a) with the changes indicated by Ms. Sos and Ms. Hillebrand.**

Ms. D'Angelo Fellmeth asked why the form is not referred to in the regulations and suggested that the regulations as currently drafted do not communicate that there is a form for the licensee to complete. Ms. Granick indicated that the Task Force had discussed putting the form in the regulations and decided against it because of concern that approval by the Office of Administrative Law (OAL) would be needed to modify the form. Mr. Miller commented that the Board could make nonsubstantive changes to regulations quite easily. **After discussion, it was moved by Ms. Sos to approve a new Section 24 that would indicate the regulations implement Business and Professions Code Section 5096 and that for purposes of Section 5096(c)(1) "the manner prescribed by board regulation" is a form the contents of which are described in Sections 26 through 29. Ms. Sos motion was seconded by Ms. Hillebrand and unanimously carried.**

The Task Force then considered subsection (b) of Section 25. **After discussion it was moved by Mr. Schultz, seconded by Ms. Sos, and unanimously carried to approve subsection (b) with no changes.**

During the discussion of subsection (c), it was suggested that it could be confusing to say the practice privilege cannot be renewed without providing any additional explanation. Mr. Schultz recommended adding a sentence to clarify that the licensee could apply for a new practice privilege after the current one expires. It was also suggested that for clarity the language at the end of the first sentence in subsection (c) should read "the date of the practice privilege notification to the Board...." **It was then moved by Ms. Sos, seconded by Ms. Hillebrand, and unanimously carried to approve subsection (c) with these changes.**

After considering subsection (d), it was moved by Ms. Sos, seconded by Ms. Hillebrand, and unanimously carried to approve subsection (d) with no modifications.

With regard to subsection (e), Ms. Granick reported that it was intended to prevent a person from getting a practice privilege in order to avoid discipline or avoid paying the license renewal delinquency fee. Mr. Granen indicated that there may be situations in which a California licensee moves to another state and does not want to renew the California license. This person should be eligible for a practice privilege. Mr. Duffey concurred and noted that subsection (e) would penalize people from other states who, in the past, complied with the law and obtained a California license to practice here. He suggested that when these people live in other states, they should not be penalized for letting the California license lapse and seeking to practice in California under a practice privilege. Ms. Crocker indicated that staff were concerned because then the person would have both a practice privilege and a California license that could be renewed. During the discussion, it was noted that the form required the licensee to report on the states where he or she is authorized to practice. However, if the California license was currently delinquent or inactive, the licensee would not be required to report it. Ms. Flowers suggested that the form could inquire if the individual ever held a California license and the dates it was held. Other Task Force members expressed support for Ms. Flowers' suggestion. **It was moved by Ms. Flowers, seconded by Mr. Iino, and unanimously carried to strike subsection (e).**

Section 26. Notification Requirements – General.
Ms. Sos indicated Section 26 was the first section setting forth the essential elements in the form. **It was moved by Ms. Hillebrand, seconded by Mr. Iino, and unanimously carried to approve Section 26.**

Section 27. Notification Requirements – Statements.
Mr. Miller noted that Section 27 requires a certification under penalty of perjury. He expressed concern regarding subsection (d) which read "The individual understands he or she may sign attest reports under the practice privilege only if he or she has at least 500 hours of experience in attest services." He indicated that an understanding is not appropriate for a certification under penalty of perjury. Ms. Sos noted that the 500 hour requirement appears in two places on the form. In one place the individual indicates he or she has this understanding. In a separate item on the form, the individual indicates he or she would like to be able to sign attest reports and has 500 hours of attest experience. Ms. Sos suggested that only the second one is needed.

Ms. Flowers expressed concern regarding the grammar in subsections (e) and (f), indicating that the use of the words "is submitting," "shall identify," and "explain" seemed grammatically awkward. Ms. Granick suggested substituting the words "submits," "identifies," and "explains" in subsections (e) and (f). Ms. Flowers indicated that this appeared to address her concern. **It was then moved by Ms. Sos, seconded by Ms. Flowers, and unanimously carried to approve Section 27 with these wording changes and with the deletion of subsection (d).**

Section 28. Notification Requirement – Agreements and Consents.
Ms. Sos suggested that the words "abide by" in subsection (a) should be replaced by "comply with." Mr. Miller indicated that he believed a certification under penalty of perjury is only appropriate in matters of fact. He suggested deleting the language providing for a certification of under penalty of perjury and ending the introductory paragraph of Section 28 after "consents." He also noted that, since subsection (e) related to continuing education was factual in nature, a certification of under penalty of perjury was appropriate. He suggested subsection (e) be moved to Section 27. **After discussion, it was moved by Ms. Sos, seconded by Ms. Flowers, and unanimously carried to approve Section 28 with the following changes: strike the phrase "made under penalty of perjury under the laws of the state of California" in the opening paragraph; strike "abide by" and insert "comply with"; and move subsection (e) to Section 27.**

During the discussion, participants noted the importance of making sure that the individual held a valid license in his or her home state. Mr. Miller suggested one way to strengthen this requirement would be to insert the word "current" before "valid license" in these regulations. **It was then moved by Ms. Hillebrand, seconded by Ms. Sos, and unanimously carried to insert "current" before "valid license" wherever these words appear in the regulations.**

Section 29. Notification Requirement – Additional Information.
Task Force members indicated that the language related to peer review in Section 29 needed revising. Mr. Schultz noted that location of the office was unrelated to peer review as the firm is the entity being reviewed. He suggested deleting the words "in the state of the firm's principal place of business" and inserting the words "within the past three years" because peer review normally occurs on a three-year cycle. **It was then moved by Ms. Sos, seconded by Mr. Schultz, and unanimously carried to approve Section 29 with a revision to paragraph (3) of subsection (b) to state "The individual's firm has undergone peer review within the past three years."**

Section 30. Safe Harbor – Period of the Notice.
Ms. Granick explained that this section establishes the safe harbor period and provides for a fine. Mr. Granen suggested that the words "In addition to any other applicable sanction" be added to the beginning of subsection (b) to clarify that other sanctions may also apply. Those sanctions do not need to be in the regulations because they are included in the statutory provisions establishing practice privileges.
After discussion, it was moved by Ms. Hillebrand, seconded by Ms. Sos, and unanimously carried to approve Section 30 with the addition of the language suggested by Mr. Granen.

Section 31. Payment of the Fee.
It was moved by Ms. Hillebrand, seconded by Ms. Flowers, and unanimously carried to approve Section 31 as drafted.

Section 32. Board Approval Required Prior to Commencement of the Practice Privilege.
Ms. Hillebrand recommended that the language in paragraph (4) of subsection (a) be revised to match the statutory language related to civil judgments and arbitration awards. Mr. Granen also suggested the addition of a paragraph (7) to address the situation in which the individual has been notified by the Board that prior approval is required before practice under a new practice privilege may commence. Mr. Granen also suggested adding "to the satisfaction of the Board" after the word "respond" in paragraph 6 to clarify that a satisfactory response to the Board's inquiry must be provided.

Mr. Miller indicated that Section 32 is unclear regarding whether the individual must stop practicing immediately if a disqualifying condition occurs during the term of the practice privilege. He noted that this lack of clarity combined with the 30 day reporting period in Section 33 suggest that the individual may continue practicing for 30 days after the disqualifying condition occurs. Mr. Granen indicated he believed the individual should cease practicing immediately after the disqualifying condition occurs, but has 30 days to report the occurrence to the Board. **After discussion it was moved by Ms. Sos, seconded by Ms. Flowers, and unanimously carried to add an affirmative statement that if a disqualifying condition occurs during the term of the practice privilege, the individual must cease practicing immediately.**

It was then moved by Ms. Hillebrand, seconded by Ms. Sos, and unanimously carried to approve Section 32 with the change embodied in Ms. Sos' motion and the following additional changes: revise subsection (a) paragraph (4) to track the statutory language related to civil judgments and arbitration awards; revise paragraph (6) to state the individual has failed to respond "to the satisfaction of the Board"; and add a new paragraph (7) to state that the individual has received a notice from the Board that prior approval will be required before a new practice privilege can commence.

Section 33. Changes to Information on the Notification.
During the discussion of Section 33, Mr. Granen suggested striking the words "of learning." Ms. Sos indicated she had added those words because there could be a time delay between the occurrence of the reportable event and the individual gaining knowledge of its occurrence. Mr. Granen indicated that an appeal process exists to address those situations. **It was moved by Ms. Sos, seconded by Ms. Hillebrand, and unanimously carried to approve Section 33 with the revision suggested by Mr. Granen.**

Section 34. Response to Board Inquiry.
Ms. Sos recommended adding a semicolon at the end of subsection (a) and a semicolon and the word "or" at the end of subsection (b). **It was moved by Ms. Hillebrand, seconded by Ms. Sos, and unanimously carried to approve Section 34 with the revisions suggested by Ms. Sos.**

Section 35. Continuing Education Requirement.
It was moved by Ms. Hillebrand, seconded by Ms. Sos, and unanimously carried to approve Section 35 as drafted.

Section 70. Fees.
During the discussion of the amendments to Section 70, Mr. Granen suggested deleting the word "annually" as it implies the practice privilege can be renewed. **It was moved by Mr. Thomas, seconded by Mr. Iino, and unanimously carried to strike the word "annually." It was moved by Mr. Schultz, seconded by Mr. Iino, and unanimously carried to approve the proposed amendments to Section 70 with deletion of the word "annually."**

IV. Consideration of Revised Notification Form.

Ms. Sos noted that the notification form would need to be revised to reflect the changes to the draft regulations approved by the Task Force. Also, the Task Force needed to give further consideration to placing the notification form in the regulations. She then asked if participants had any other comments or other modifications to the draft form (Attachment 3) they would like to propose.

During the discussion, Ms. Hillebrand suggested revising the certification to indicate that any misrepresentation or omission disqualifies the individual from holding a practice privilege as well as being cause for termination. She also indicated that on page 2 of the form, the language accompanying the second box in Item 10 should begin with the words "if submitted before December 31, 2007" to clarify that there is a time limit on the safe harbor provision.

Ms. D'Angelo Fellmeth suggested the "Additional Information" section precede the section on "Disqualifying Conditions." She also recommended the following minor language changes: Item 3 (page 1) under Qualifying Conditions should begin with the words "I qualify" rather than "I am qualifying"; the language following the second box for Item 10 (page 2) should state "within five business days after I began the practice of public accountancy..." instead of "within five business days of beginning the practice of public accountancy..."; and the language on the last line of the form should say "one year" instead of "one-year."

Mr. Schultz suggested that there be a separate "Attest Services" section on the form. Mr. Miller indicated that the title of the form needed to include a reference to the implementing regulations: "Title 16, Division 1, Article 4 of the California Code of Regulations." He further indicated that a privacy statement was needed.

It was then moved by Ms. Hillebrand, seconded by Mr. Schultz, and unanimously carried to approve the form with these changes and any other changes necessary to make the form consistent with the revised regulations.

The Task Force then discussed the option of placing the form in the regulations. Mr. Duffey noted that the discussion of the regulations made it clear that the regulations would be simpler and easier to understand if they included the form rather than the long descriptions of requirements in the current draft. Mr. Granen agreed. Ms. Hillebrand expressed support for placing the form in regulations, but indicated that retaining the other provisions in the regulations may be useful for other states that may want to use these regulations as a model.

Ms. Hillebrand also suggested that staff check with OAL to determine, if the form is in the regulations, what kind of changes could be made to the form without going through the full rulemaking process. She also noted it would be important to determine if placing the form in regulations would in any way restrict turning it into a workable, on-line, interactive form. It was the consensus of the Task Force that, before the next meeting, staff should seek guidance from OAL regarding placing the form in the regulations.

Mr. Schultz suggested that before the next meeting it would also be useful to provide the form to some CPAs who were unfamiliar with its contents to see if they have any problems completing it. Other Task Force members expressed support for this idea. Ms. Crocker suggested that the form could also be given to members of Board committees for this purpose.

It was then moved by Ms. Flowers, seconded by Mr. Thomas, and unanimously carried to approve the form with all of the changes identified during the discussion.

A. Consideration of Language for Electronic Signature.

Ms. Sos noted that the modification to the certification on the form suggested earlier by Ms. Hillebrand would also apply to the electronic signature (Attachment 4).

V. Consideration of Checklist for Processing Notifications That Contain Disqualifying Conditions.

Mr. Newington presented his memo related to the processing of affirmative responses to disqualifying conditions on the practice privilege notification form (Attachment 5). During the discussion it was noted that the purpose of the guidelines in the memo is to assist staff in the review and approval process when a disqualifying condition is indicated on the form. **It was moved by Ms. Hillebrand, seconded by Mr. Thomas, and unanimously carried to approve the procedure outlined in Attachment 5.**

During the discussion, Mr. Iino inquired if it would make a difference if there were multiple convictions for the same offense, for example multiple substance abuse convictions. Mr. Newington indicated that that the offense must be substantially related to the practice of public accountancy. He noted that there were incidents in the past when licensees were guilty of serious offenses such as child molestation and no discipline was possible because the offenses were not substantially related to the

practice of public accountancy. Ms. D'Angelo Fellmeth reported that there is a case involving the Medical Board in which it was suggested that repeated drunk driving convictions demonstrated a serious lack of judgment on the part of the licensee. Mr. Granen indicated that the perception is changing and that a substance abuse problem is now seen as an indication the person could be unreliable in terms of serving any kind of client.

VI. Comments from Members of the Public..

Members of the public provided comments during the course of the meeting.

VII. Agenda Items for Next Meeting.

Ms. Sos noted that the agenda for the January 2005 meeting included final approval of the form and the regulations, fines and penalties, and a procedure for administrative suspension. She added that education and outreach had been scheduled for January, but it may be moved to a subsequent meeting.

There being no further business, the meeting was adjourned at 4:20 p.m.

State of California
Department of Consumer Affairs

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Attachment 1

Memorandum

Practice Privilege TF Agenda Item II.
November 18, 2004

Board Agenda Item VIII.F.4.a.
November 19, 2004

To : Practice Privilege Task Force Members
Board Members

Date : November 8, 2004

Telephone : (916) 561-1740
Facsimile : (916) 263-3676
E-mail : pfranz@cba.ca.gov

From : Patti L. Franz
Licensing Manager

Subject : Consideration of a Method for Verification of Attest Experience Through Random Audit

At its October 5, 2004, meeting, the Practice Privilege Task Force members requested that staff develop a form to be used during the audit process to verify whether the 500-hour attest experience requirement had been met prior to California practice privilege.

Therefore, attached for consideration by the Task Force is a modification of the *Certificate of Experience* currently used for licensure in California. It is envisioned this form will only be mailed to out-of-state licensees who identify themselves as signers of attest reports on the notification form.

I will be available at the meeting to answer any questions the Task Force members may have.

Attachment

CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
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FACSIMILE: (916) 263-3676
WEB ADDRESS: http://www.dca.ca.gov/cba

CERTIFICATION OF ATTEST EXPERIENCE

PRINT OR TYPE

FULL NAME OF LICENSEE: (No Initials) (First) (Middle) (Last)	U.S. SOCIAL SECURITY #

FIRM NAME (IF ANY)	CURRENT TITLE
BUSINESS ADDRESS (Including City, State, and Zip Code)	
BUSINESS TELEPHONE: Area Code ( )	Approximate Number of Years Practicing Public Accountancy

Pursuant to Section 5096.5, you may not sign an attest report unless you have 500 hours of experience in attest services (see Section 5095 of the California Business and Professions Code). For these purposes, experience is that which has enabled you to demonstrate an understanding of the requirements of planning and conducting an audit with minimum supervision which results in opinions on full disclosure financial statements.

		Yes	No
	Have you participated in the planning of an audit, including the selection of the procedures to be performed?		
II.	Have you had experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions included in financial statements?		
III.	Have you had experience in the preparation of working papers in connection with the various elements of I and II above?		
IV.	Have you had experience in the preparation of written explanations and comments on the work performed and its findings?		
V.	Have you participated in the preparation of and reporting on full disclosure financial statements?		

I hereby certify, under penalty of perjury under the laws of the State of California, that I have met California's experience requirement, Section 5095, prior to the submission of the notification of practice privilege, and that all statements and representations on this form are true and correct.

Licensee Signature	Date Signed

	Audit	Review	Compilation	Total
Please estimate your most recent 500-hours of attest experience.				

State of California
Department of Consumer Affairs

Attachment 2

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Memorandum

Practice Privilege TF Agenda Item III
November 18, 2004

Board Agenda Item VIII.F.4.b
November 19, 2004

To : Practice Privilege Task Force Members
Board Members

Date : November 8, 2004

Telephone : (916) 561-1788
Facsimile : (916) 263-3674
E-mail : agranick@cba.ca.gov

From : Aronna Granick
Legislation/Regulations Coordinator

Subject : Draft Regulations Related to Practice Privileges

Attached for your consideration are draft regulations related to practice privileges. It is anticipated that after the Task Force discusses this language at its November 18, 2004, meeting, revised language will be provided for Task Force and Board action in January 2005, with a regulation hearing at the May 2005 Board meeting.

Attachment

– DRAFT –

Article 4 – Practice Privileges

Section 24. License or Practice Privilege Needed.

An individual must hold a California license or a practice privilege to engage in any activity defined as the practice of public accountancy by Business and Professions Code Section 5051 for any California resident or business. An individual who does not qualify for a practice privilege pursuant to the Article and Business and Professions Code Section 5096 shall apply for a California license in order to practice public accountancy in California.

Section 25. Qualifications for and Term of the Practice Privilege.

(a) To be eligible for a practice privilege an individual shall, at a minimum, meet one of the following qualifications:

(1) Hold a valid license, certificate, or permit from a state determined by the Board to have education, examination, and experience requirements for licensure substantially equivalent to the requirements in Business and Professions Code Section 5093.

(2) Possess education, examination, and experience qualifications that have been determined by the Board to be substantially equivalent to the qualifications under Business and Professions Code Section 5093. Pursuant to subdivision (b) of Business and Professions Code Section 5096, the Board accepts individual qualification evaluations of substantial equivalency by the National Association of State Boards of Accountancy's (NASBA's) CredentialNet. Prior to seeking a practice privilege under this paragraph, an individual shall apply to NASBA's CredentialNet, pay the required fee, and obtain the required determination. The individual shall disclose the CredentialNet file number in the notification required by Sections 26, 27, 28, and 29 and shall make CredentialNet's determination available to the Board upon request.

(3) Have continually practiced public accountancy as a Certified Public Accountant under a valid license issued by any state for four of the last ten years.

(b) Except as provided in Section 30 for practice commencing on or before December 31, 2007 or in those instances in which prior approval by the Board is required pursuant to Section 32, the practice privilege commences on the date of notification pursuant to Sections 26, 27, 28, and 29. When prior approval by the Board is required pursuant to Section 32, the practice privilege commences on the date the practice privilege is approved by the Board.

(c) A practice privilege, including a practice privilege that is or has been on administrative suspension pursuant to Business and Professions Code Section 5096.4, expires one year from that date of notification and cannot be renewed.

(d) For purposes of this Article and Business and Professions Code Section 5096, the "license upon which the practice privilege is based" or "the license upon which the substantial equivalency is based" is the license under which the individual qualifies for a practice privilege pursuant to paragraph (1) of subsection (a), or the license in the state of the principal place of business for those who qualify for a practice privilege under paragraphs (2) or (3) of subsection (a).

(e) The holder of a California license that is expired but subject to renewal is not eligible for a practice privilege.

Section 26. Notification Requirements - General.

To obtain a practice privilege an individual shall notify the Board and, under penalty of perjury, certify the truthfulness of all information provided in the notification. The notification shall include the individual's name, prior names, firm name (if any), address of principal place of business, date of birth, social security number, telephone number, either a fax number or e-mail address, the date of the notification, the individual's signature, either handwritten or an electronic equivalent, the state where the individual holds the license upon which the practice privilege is based including the license number and license issuance date, and any other states where the individual holds a license or licenses or other authority to practice, including the numbers and issuance dates of those licenses. In addition, this notification shall include all of the statements required by Section 27, all the agreements and consents required by Section 28, and all of the additional information required by Section 29.

Section 27. Notification Requirement – Statements.

The notification required to obtain a practice privilege shall include the following statements made by the individual under penalty of perjury under the laws of the State of California:

(a) The individual has a principal place of business that is not in California, and the individual does not have an office in California other than through a firm registered in California, or the individual is an applicant for licensure under Business and Professions Code Sections 5087 and 5088, whose application is pending.

(b) The individual holds a valid license to practice public accountancy in another state.

(c) The individual meets one of the minimum requirements to be eligible for a practice privilege described in subsection (a) of Section 25.

(d) The individual understands he or she may sign attest reports under the practice privilege only if he or she has at least 500 hours of experience in attest services.

(e) The individual is submitting the notice at or before the time of beginning the practice of public accountancy in California or within five business days of beginning the practice of public accountancy in California. If the notice is submitted within the five business days after practice begins, the individual shall identify the date on which the practice of public accountancy began and explain the reason for the delayed notice.

(f) The individual concurrently is submitting to the Board the required fee.

Section 28. Notification Requirement – Agreements and Consents.

The notification required to obtain a practice privilege shall include the following agreements and consents made under penalty of perjury under the laws of the state of California:

(a) The individual agrees to abide by the laws of the State of California including the California Accountancy Act and the Board's regulations.

(b) The individual consents to the personal and subject matter jurisdiction of the Board including the Board's authority to: (1) administratively suspend the practice privilege pursuant to Business and Professions Code Section 5096.4, without prior notice or hearing and in the sole discretion of the Board; (2) impose discipline pursuant to Business and Professions Code Section 5096.3 for any violations of the California Accountancy Act or regulations thereunder and recover costs for investigation and prosecution; and (3) exchange information relating to the practice privilege and/or refer any additional and further discipline to the board of accountancy of any other state, and/or the Securities and Exchange Commission (SEC), Public Company Accounting Oversight Board (PCAOB) or other relevant regulatory authorities.

(c) The individual agrees to respond to a Board inquiry even as to a practice privilege that has expired.

(d) The individual consents to the authority of the Board to verify the accuracy and truthfulness of the information provided in the notification and consents to the release to the Board of all information relevant to the Board's inquiries even after the privilege has expired by (1) contacting other states, (2) contacting the SEC, PCAOB, or any other federal agency before which the individual is authorized to practice, and (3) contacting NASBA.

(e) The individual certifies to having met the continuing education and examination requirements in the state of licensure upon which the practice privilege is based under Section 25(d) of this Article.

(f) The individual agrees to notify the Board in writing within 30 days of any change in the information in the notice which occurs during the term of the practice privilege, including changes that occur while the practice privilege is administratively suspended.

Section 29. Notification Requirement – Additional Information.

The notification required to obtain a practice privilege shall include the following information, the truthfulness of which the individual certifies under penalty of perjury under the laws of the State of California:

(a) The occurrence of any of the events described in subsection (a) of Section 32, each of which may disqualify the individual from a practice privilege, and thus requires Board approval prior to commencement of the practice privilege.

(b) The applicability, or not, of any of the following:
(1) The individual seeks authorization to sign reports on attest engagements, and , if so, has completed 500 hours of attest experience.
(2) The individual is an "associated person of a registered public accounting firm" as used Section 2 of the Sarbanes-Oxley Act of 2002.
(3) The individual's firm has undergone peer review in the state of the firm's principal place of business.
(4) The individual's state of licensure upon which the practice privilege is based under Section 25(d) requires continuing education related to fraud detection, and, if so, the individual has fulfilled this requirement.

30. Safe Harbor – Period of the Notice.

(a) The notification described in Sections 26, 27, 28, and 29 shall be submitted to the Board on or before the individual begins practice in California under a practice privilege. However, during the period January 1, 2006, through December 31, 2007, an individual shall not be deemed to be in violation of this article or Article 5.1 of the Accountancy Act (commencing with Business and Professions Code Section 5096) solely because he or she begins the practice of public accounting in California prior to giving notification, provided notification is submitted within five business days of the date practice begins. An individual who gives notification to the Board within the five day period provided in this Section shall be deemed to have a practice privilege from the first day of practice in California.

(b) The Board may issue a fine of _____ to _____ for notifying the Board more than five business days after beginning practice in California.

31. Payment of the Fee.

The fee required by Section 70(h) must be received by the Board within 30 days of the date of notification.

(a) An individual is subject to fine of ____ to ____ for the first failure to pay the practice privilege fee within 30 days of the commencement of the practice privilege, including attempting to pay with a check that is subsequently dishonored.

(b) An individual is subject to fine of _____ to _____ for any subsequent occurrence of failure to pay the practice privilege fee within 30 days, including attempting to pay with a check that is subsequently dishonored.

(c) An individual is also subject to an administrative suspension for failure to pay the fee, including attempting to pay with a check that is subsequently dishonored. This administrative suspension shall remain in effect until the Board gives its approval for the individual to resume practice and shall not extend the term of the practice privilege.

32. Board Approval Required Prior to Commencement of the Practice Privilege.

(a) No individual may practice public accountancy in California under a practice privilege without prior approval of the Board if he or she has, or acquires at any time during the term of the practice privilege, any of the following conditions:

(1) The individual is convicted of a crime other than a minor traffic violation.

(2) The individual has had a license or other authority to practice a profession issued by a state, federal, or local agency or court or the Public Company Accounting Oversight Board (PCAOB) revoked, suspended, denied, surrendered, put on probationary status, or otherwise sanctioned or limited, except for the following occurrences:

(A) an action by a state board of accountancy in which the only sanction was a fine of less than $_____ or a requirement that the individual complete specified continuing education courses.

(B) the revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew.

(3) The individual is the subject of an investigation, inquiry, or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving his or her professional conduct.

(4) The individual has had a judgment or arbitration award in an amount greater than $30,000 entered against him or her in a civil matter alleging actionable conduct in the practice of public accountancy.

(5) The individual held a practice privilege in California that expired while under administrative suspension or with an unpaid fine.

(6) The individual has failed to respond to a request for information from the Board regarding a matter related to a current or prior practice privilege.

(b) The practice privilege is subject to administrative suspension if any of the conditions listed in subsection (a) of this section occur during the term of the practice privilege.

33. Changes to Information on the Notification.

(a) An individual shall report in writing to the Board changes in the information reported on the notification within 30 days of learning of the change.

(b) An individual is subject to a fine of _____ to _____ for failure to comply with the requirements of this section.

34. Response to Board Inquiry.

Failure to comply with the obligation to respond to Board inquiry pursuant to Section 5096(e)(5) could result in one or more of the following:
(a) Issuance of a fine of _____ to _____.
(b) An administrative suspension of a current practice privilege pursuant to Business and Professions Code Section 5096.4.
(c) The requirement to obtain the approval of the Board before commencing to practice under a future practice privilege.

35. Continuing Education Requirement.

An individual practicing under a practice privilege shall meet the continuing education requirements of the state issuing the license upon which the practice privilege is based pursuant to Section 25(d).

Section 70. Fees.

(a) ~~(1) Commencing July 1, 2002, the fees to be charged each California applicant for the paper and pencil certified public accountant examination, including each applicant for re-examination, shall be an application fee of $60 and a fee of $36 for each part of the examination requested by the applicant.~~
~~(2) The fee to be charged each applicant from another state who sits for the paper and pencil certified public accountant examination in California shall be a total of $75.~~

~~(3)~~ Commencing January 23, 2004 the fee to be charged each California applicant for the computer-based Uniform Certified Public Accountant Examination, shall be an application fee of $100 for issuance of the Authorization to Test to first-time applicants and an application fee of $50 for issuance of the Authorization to Test to repeat applicants.

(b) Commencing July 1, 2001, the fee to be charged each applicant for issuance of a certified public accountant certificate shall be $250.

(c) The fee to be charged each applicant for registration, including applicant for registration under a new name as a partnership or as a corporation, shall be $150.

(d) Commencing July 1, 2000, the fee to be charged each applicant for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be $200.

(e) Commencing July 1, 2000, the fee to be charged each applicant for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be $200.

(f) The fee for the processing and issuance of a duplicate copy of a certificate of licensure or registration shall be $10.

(g) The fee for processing and issuance of a duplicate copy of a registration, or permit or other form evidencing licensure or renewal of licensure shall be $2.

(h) Commencing January 1, 2006, the fee to be charged an individual for a practice privilege pursuant to Business and Professions Code Section 5096 shall be $100 annually.

Note: Authority cited: Section 5010 and 5018, Business and Professions Code. Reference: Sections 122, 163 and 5134 Business and Professions Code.

State of California Department of Cons

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

DRAFT

Attachment 3

Practice Privilege TF Agenda Item IV.
November 18, 2004

Board Agenda Item VIII.F.4.c.
November 19, 2004

NOTIFICATION AND AGREEMENT TO CONDITIONS FOR THE PRIVILEGE TO PRACTICE PUBLIC ACCOUNTING IN CALIFORNIA PURSUANT TO CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 5096:

Name: _____ Prior Name(s): _____

Firm Name: _____

Address Of Principal Place Of Business: _____

Telephone Number (business hours): _____ Fax Number (business hours): _____ Business E-mail: _____

Date Of Birth: ____/____/_____ Social Security Number: _____

QUALIFICATION REQUIREMENTS:

1. I am an individual.

2. My principal place of business is not in California and I do not have an office in California other than through a firm that is registered in California and of which I am an employee or I have a pending application for licensure in California under Sections 5087 and 5088.

3. I am qualifying for Practice Privilege based on my valid license to practice public accountancy in the following state:

   State: _____ License Number: _____ Date Issued: _____

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

   ☐ b. My individual qualifications have been determined by NASBA to be substantially equivalent (NASBA file no. _____); **OR**

   ☐ c. I have continually practiced public accountancy as a certified public accountant under a valid license issued by any state for 4 of the last 10 years.

5. I understand that I may sign a report on an attest engagement under this privilege to practice only if I have at least 500 hours of experience in attest services.

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

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

8. I agree to respond fully and completely to all inquiries by the CBA relating to my California practice privilege, including after the expiration of this privilege.

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

10. I am submitting this notice to the CBA:

☐ at or before the time I begin the practice of public accountancy in California; **OR**

☐ within five business days of beginning the practice of public accountancy in California on __/__/__. My reason(s) for not providing notice on or before that date:

_____

_____

11. I have met the continuing education requirements and any exam requirements for the state of licensure identified in item 3 above.

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

13. I am concurrently submitting the fee of $100.00.

DISQUALIFYING CONDITIONS:

Please check any of the items below that apply. *For any checked items in (1)-(6), you must provide additional information as requested in Attachment X and* ***you are not authorized to practice in California unless and until you receive notice from the CBA that the privilege has been granted.***

☐ 1. I have been convicted of a crime other than a minor traffic violation.

☐ 2. I have had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned except for the following occurrences:

   (A) an action by a state, federal, or local agency or court of the PCAOB in which the only sanction was a fine of less than $_____ or a requirement that the individual complete specified continuing education courses.
   (B) the revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew.

☐ 3. I am currently the subject of an investigation, inquiry or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving my professional conduct.

4. I have an unresolved administrative suspension or an unpaid fine related to a prior California practice privilege.

☐ 5. I did not respond to a request for information from the Board related to a prior practice privilege.

☐ 6. I have had a judgment or arbitration award against me in an amount of $30,000 or greater that involved allegations relating to my professional conduct.

ADDITIONAL INFORMATION (Required):

In addition to the state of licensure identified in item 3, I am also authorized to practice in the following:

State: _____ License Number: _____ Other Authority: _____

State: _____ License Number: _____ Other Authority: _____

I wish to be able to sign an attest report under this practice privilege and I have at least 500 hours of experience in attest services. ☐ Yes ☐ No

I am an associated person of a firm registered with the PCAOB. ☐ Yes ☐ No

My office where I have my principal place of business undergoes peer review. ☐ Yes ☐ No

The state of licensure identified in item 3 requires continuing education in fraud detection and I have fulfilled this requirement. ☐ Yes ☐ No

_____, understand that any misrepresentation or omission in connection with this notification is cause for termination of my practice privilege in California. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. I certify under penalty of perjury under the laws of the state of California that the foregoing information is true and correct.

Signature: _____ Date: _____

Your privilege to practice commences with the submission of your completed notification and your fee. Your privilege expires one-year from the date of this notice.

State of California Department of
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CALIFORNIA BOARD OF ACCOUNTANCY
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ATTACHMENT X

1. If you checked any of items 1 - 6 under disqualifying conditions, please provide explanatory details:

_____

_____

_____

2. If you checked item 6 under disqualifying conditions, please also provide:

Date of Judgment/
Arbitration Award: _____ Jurisdiction/Court: _____ Docket No: _____

I understand that any misrepresentation or omission in connection with this notification is cause for termination of my practice privilege in California. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. By typing my name in the box below and clicking the "I Agree" button I certify under penalty of perjury under the laws of the State of California that the information contained in this notice is true and correct. If I am not prepared to so certify, I understand that I should click the "Cancel" button to discontinue the notification process.

Full Name

I Agree | Cancel

State of California
Department of Consumer Affairs

Attachment 5

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Memorandum

Practice Privilege TF Agenda Item V.
November 18, 2004

Board Agenda Item VIII.F.4.d.
November 19, 2004

To : Practice Privilege Task Force Members
Board Members

Date : November 2, 2004

Telephone : (916) 561-1731
Facsimile : (916) 263-3673
E-mail : gnewington@cba.ca.gov

From : Gregory P. Newington
Chief, Enforcement Division

Subject : Processing of Affirmative Responses to Disqualifying Conditions on the Practice Privilege Notification Form

Business and Professions Code Section 5096(g) (Attachment 1) lists disqualifying conditions related to California Practice Privilege. At the September meeting, I provided the Task Force with the standards and process for evaluating how the disqualifying conditions may result in the denial of the practice privilege.

At the time of notification the out-of-state licensee is required to provide additional information on Attachment X of the Notification Form if they answer affirmatively to any disqualifying condition, including whether they have been convicted of a crime other than a minor traffic violation.

Therefore, Licensing staff should permit practice privilege if the individual reports the following:

- Any misdemeanor clearly not "substantially related" to the practice of public accountancy, such as spousal abuse.
- Any misdemeanor, including those which are "substantially related", which are more than 15-years old.
- Any expunged misdemeanor more than five-years old.
- Any expunged conviction over 10-years old.
- Driving under the influence.
- Possession/use of a controlled substance.

Licensing staff should refer all other convictions to the Enforcement Division for review, as well as:

- Professional license discipline or sanction issues.
- Matters involving investigations or proceedings related to professional conduct.
- Matters involving judgments or arbitration awards related to professional conduct.
- Matters involving an unresolved administrative suspension.

GPN

Attachment

Section 5096(g)

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

(2) Disqualifying conditions include:

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

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

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

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

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

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

State of California
Department of Consumer Affairs

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Memorandum

Practice Privilege TF Agenda Item II.A.1 and 2.
January 20, 2005

Board Agenda Item VIII.F.3.a.i. and ii.
January 21, 2005

To : Practice Privilege Task Force Members
Board Members

Date : January 13, 2005

Telephone : (916) 561-1731
Facsimile : (916) 263-3763
E-mail : gnewington@cba.ca.gov

From : Gregory P. Newington, Chief
Enforcement Division

Subject : CONSIDERATION OF PROPOSED FINE AMOUNTS
PAYMENT NOT RECEIVED OR RETURNED FOR INSUFFICIENT FUNDS

Background

Effective January 1, 2006, an individual whose principal place of business is not in California and who has a valid and current license to practice public accountancy from another state may, under certain conditions, practice public accountancy in California under a practice privilege (California Business and Professions Code Section 5096, et seq).

Proposed regulations to implement these statutes will provide for a fee of $100 for a practice privilege. Proposed regulations will also allow the Board to fine an individual for failure to pay the fee within 30 days, including attempting to pay with a check that is subsequently dishonored. The fine does not preclude other sanctions.

Issues

Staff have been asked to make recommendations related to the following issues.

- What would be the appropriate fine amount for failure to pay the practice privilege fee as required?
- What would be the appropriate fine amount for any **subsequent** occurrence of failure to pay the practice privilege fee as required?

Recommendation

It is recommended that an individual be subject to a fine of **$100** to **$500** for the first failure to pay the practice privilege fee within the required 30 days, including attempting to pay with a check that is subsequently dishonored.

It is further recommended that an individual be subject to a fine of **$250** to **$1,000** for any **subsequent** occurrence of failure to pay the practice privilege fee within the required 30 days, including attempting to pay with a check that is subsequently dishonored.

These recommended amounts are believed to be high enough to be an incentive for timely payment. In addition, the fine ranges allow for the actual fine amount to be adjusted within the established range, depending on any aggravating or mitigating factors, including but not limited to:

a) How late after 30 days the payment was received; and
b) If the payment was made voluntarily.

GPN:mls

State of California
Department of Consumer Affairs

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Memorandum

Practice Privilege TF Agenda Item II.B.
January 20, 2005

Board Agenda Item VIII.F.3.b.
January 21, 2005

To : Practice Privilege Task Force Members
Board Members

Date : January 10, 2005

Telephone : (916) 561-1731
Facsimile : (916) 263-3763
E-mail : gnewington@cba.ca.gov

From : Gregory P. Newington, Chief
Enforcement Division

Subject : CONSIDERATION OF PROPOSED FINE AMOUNTS
LATE NOTIFICATION SUBMISSION

Background

Proposed regulations to implement newly enacted California Business and Professions Code Section 5096, et seq, require that an individual submit the practice privilege notification at or before the time of beginning practice in California or, until December 31, 2007, within five business days of beginning practice. Proposed regulations will allow the Board to issue a fine to an individual who notifies the Board more than five business days after beginning practice.

Issue

Staff have been asked to make a recommendation regarding the following issue.

- What would be the appropriate fine amount for notifying the Board more than five business days after beginning practice?

Comments

Practicing public accountancy in California under a practice privilege is a "privilege." An individual who does not timely submit the practice privilege notification would be in violation of Section 5050, Practice without Permit, and Section 5096.1, as well as the proposed regulations.

Currently the Board can assess fines ranging from $150 to $2000 for unlicensed practice under Board Regulation Section 95.2. Proposed revisions scheduled for 2005 will increase the amount of the fines in Section 95.2, now that the statutory level has been increase from $2,500 to $5,000. The range for fines for unlicensed practice is expected to be raised to near or at the maximum.

Recommendation The amount of the fine should be high enough to encourage an individual to file the practice privilege notification timely, as well as demonstrate that practicing under a practice privilege is a "privilege" and that the Board does not regard unlicensed practice lightly. Therefore, it is recommended that fines range from **$250** to **$5,000** for late notification.

The existence of aggravating and/or mitigating factors would be used to determine the actual fine amount within this range.

GPN:mls

State of California
Department of Consumer Affairs

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Memorandum

Practice Privilege TF Agenda Item II.C.
January 20, 2005

Board Agenda Item VIII.F.3.c.
January 21, 2005

To : Practice Privilege Task Force Members
Board Members

Date : January 13, 2005

Telephone : (916) 561-1731
Facsimile : (916) 263-3763
E-mail : gnewington@cba.ca.gov

From : Gregory P. Newington, Chief
Enforcement Division

Subject : CONSIDERATION OF PROPOSED FINE AMOUNTS - **FAILURE TO REPORT CHANGES TO THE INFORMATION IN THE NOTIFICATION TIMELY**

Background

As part of the process to obtain a practice privilege under the new practice privilege legislation, an individual must complete a notification form provided by the Board.

The notification requires information such as the individual's name, prior names, firm name (if any), address of principal place of business, date of birth, social security number, telephone number, fax or email address, and the state where the individual holds the license upon which the practice privilege is based including license number and issue date. The individual must also certify that his or her principal place of business is not in California and if the individual has a pending application for licensure in California.

Proposed regulations to implement the practice privilege statutes require that an individual report in writing to the Board changes in the information reported in the notification form within 30 days of the change. Proposed regulations would allow the Board to fine an individual for failure to report the changes as required.

Issue

Staff have been asked to provide a recommendation related to the following issue.

- What would be the appropriate fine amount for failure to report in writing changes in the information reported on the notification within 30 days of the change?

Comments

The notification requires information relative to the individual's eligibility to practice in California under a practice privilege. Any changes in the information may potentially disqualify the individual from holding the practice privilege.

The information in the notification also provides a means for the Board to contact practice privilege holders. Dated or inaccurate information hinders the Board's ability to regulate these individuals and protect California consumers from individuals who are not qualified to practice.

Recommendation

The recommended fine range for failure to report in writing to the Board changes in the information reported on the notification within 30 days of the change is **$250** to **$5,000**.

The actual amount of the fine imposed can be adjusted depending on factors including but not limited to:

a) How late after the 30 day grace period was notice submitted;
b) Was notice supplied voluntarily; and
c) Significance of information involved.

GPN:mls

State of California
Department of Consumer Affairs

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Memorandum

Practice Privilege TF Agenda Item II.D.
January 20, 2005

Board Agenda Item VIII.F.3.d.
January 21, 2005

To : Practice Privilege Task Force Members
Board Members

Date : January 13, 2005

Telephone : (916) 561-1731
Facsimile : (916) 263-3763
E-mail : gnewington@cba.ca.gov

From : Gregory P. Newington, Chief
Enforcement Division

Subject : CONSIDERATION OF PROPOSED FINE AMOUNTS - **FAILURE TO RESPOND TO BOARD INQUIRY**

Background

Section 5096(e)(5) of the new practice privilege legislation (California Business and Professions Code Section 5096, et seq), effective January 1, 2006, requires practice privilege holders to cooperate with any Board investigation, inquiry, request, notice, demand or subpoena for information or documents and to timely provide to the Board the identified information and documents.

Proposed regulations to implement the practice privilege statutes authorize the Board to issue a fine for failure to comply with the obligation to timely respond to the Board's inquiry or investigation. The fine does not preclude other sanctions.

Issue

Staff have been asked to provide a recommendation related to the following issue.

- What would be the appropriate fine amount for failure to timely respond to a Board inquiry pursuant to Section 5096(e)(5)?

Recommendation

The recommended fine range for failure to comply with the obligation to timely respond to Board inquiry pursuant to Section 5096(e)(5) is **$250** to **$5,000**.

This fine range along with the possibility of administrative suspension of the practice privilege will provide incentive to practice privilege holders to comply with Section 5096(e)(5).

Factors that would determine the actual fine amount to be imposed within the fine range include, but are not limited to:

a) Number of times person failed to comply;
b) Length of time the person failed to comply;
c) Significance of information withheld; and
d) Formality of request (request versus subpoena).

GPN:mls

State of California
Department of Consumer Affairs

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Memorandum

Practice Privilege TF Agenda Item III.
January 20, 2005

Board Agenda Item VIII.F.4.
January 21, 2005

To : Practice Privilege Task Force Members
Board Members

Date : January 4, 2005

Telephone : (916) 561-1731
Facsimile : (916) 263-3763
E-mail : gnewington@cba.ca.gov

From : Gregory P. Newington, Chief
Enforcement Division

Subject : **PROPOSAL SPECIFYING A FINE AMOUNT FOR THE DISQUALIFYING CONDITION EXEMPTION**

Background

Under the new practice privilege legislation to become effective January 1, 2006, the practice privilege will generally commence upon the individual's notification to the Board. However, certain disqualifying conditions, as provided under California Business and Professions Code Section 5096(g) require Board approval before the individual may begin practice.

Included as a disqualifying condition under Section 5096(g) is the following.

> "Revocation, suspension, denial, surrender or other discipline or sanctions involving any license, permit, registration, certificate or other authority to practice any profession in this or any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board."

Section 5096(g) also permits the Board to adopt regulations exempting specified minor occurrences of those conditions.

Issue

Proposed regulations related to disqualifying conditions will exempt individuals from reporting actions by a state Board of Accountancy in which the only sanction was a fine under a specified amount. Staff have been asked to make a recommendation regarding what that specified amount should be.

Comments

Board staff contacted the Boards of Accountancy in the states of Florida, New York, Oregon, Texas, and Virginia. Of these states, only Oregon responded that they issue any type of administrative fine for minor violations.

The type of violations for which Oregon issues fines to its licensees and the fine amounts are listed below.

- Failure to notify of change of address - $100 fine
- Failure to respond to a Board inquiry - $100 fine
- Failure to complete Continuing Professional Education timely - $250 fine
- Failure to register an accounting firm with the Board - $500 fine

Recommendation

Staff's research indicates that few states issue administrative fines. The most common response to our inquiries was that the matter would have to go through the disciplinary process before the Board took action. The representative from Virginia did indicate that in the past, the Board discussed issuing fines to its licensees; however, the Board has not acted on this issue.

Based on the information provided by the Oregon State Board of Accountancy, it is recommended that **$500** be the fine amount specified in the regulation.

GPN:mls

State of California
Department of Consumer Affairs

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Memorandum

Practice Privilege TF Agenda Item IV
January 20, 2005

Board Agenda Item VIII.F.5
January 21, 2005

To : Practice Privilege Task Force Members
Board Members

Date : January 4, 2005

Telephone : (916) 561-1788
Facsimile : (916) 263-3674
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From : Aronna Wong
Legislation/Regulations Coordinator

Subject : Proposed Regulations Implementing Practice Privileges

This memo provides for Task Force and Board consideration and action proposed regulations implementing Practice Privileges. Board President, Renata Sos, requested that this memo also provide a brief overview of the process and policy judgments that underlie the draft regulations.

As you recall, the Practice Privilege concept was developed last year when the Board, through its UAA Task Force, considered a weakness in California law that had permitted out-of-state CPAs to temporarily practice here under vague standards and without notice to the Board. After extensive deliberations, with significant input from the profession, the Center for Public Interest Law, and other interested parties, a process was developed to permit, qualified out-of-state CPAs to temporarily practice in California only after obtaining a "Practice Privilege" that is under the full regulatory umbrella of the Board. It is anticipated that this process, which was enacted into law by SB 1543 (Figueroa, Chapter 921, Statutes of 2004) will not only provide for consumer protection, but also will facilitate the responsible and expeditious cross-border movement of qualified CPAs from other states.

In July 2004, while SB 1543 was still moving through the legislative process, the Task Force – renamed the Practice Privilege Task Force – began developing the proposed implementing regulations which are before you. These proposed regulations are scheduled for consideration by the Task Force at its meeting on January 20, 2005, and Board action on the Task Force's recommendations is scheduled for the Board meeting the next day.

From the beginning, the deliberations were guided by the principles of increasing consumer protection and maximizing compliance, but minimizing the administrative burden on licensees and board staff, to the extent possible without compromising the first two principles. A focal point of the discussion has been the Practice Privilege Notification Form that qualified out-of state CPAs can submit to the Board to obtain a Practice Privilege. When the practice privilege statutes become operative on January 1, 2006, it is anticipated that the Notification Form will be available both as a hard copy paper document that can be completed by hand and mailed or faxed to the Board office and also as a electronic form that can be completed and submitted on-line. It is intended that this form be self-explanatory and easy to use, but that it also be comprehensive to ensure compliance with the statutes.

The attached regulations provide for the Notification Form and for other aspects of program administration. As a result of discussions by the Task Force in November 2004, two versions of the proposed regulations are attached to this memo: one version that describes in the text of the regulations the essential elements in the Notification Form (Attachment 1) and a second version that incorporates the Notification Form itself (Attachment 2). Both versions reflect the same policy decisions. The approach used in Attachment 1 was selected by the Task Force in July 2004. However, plans have been made to revisit this decision at the January 20, 2005, meeting, and it is anticipated that the Task Force will make a determination regarding which version to recommend to the Board. It is also anticipated that the Task Force will develop recommendations specific to the fine amounts that are left blank in both Attachments 1 and 2.

In addition to providing for the Notification Form, these regulations also reflect the policy decisions outlined below which, with two exceptions, were approved by the Board at its September and November 2004 meetings. (See Attachments 3 and 4 for excerpts from the minutes of those meetings.)

- Substantial Equivalency Determinations. The Board decided to accept determinations by NASBA's CredentialNet that individuals seeking Practice Privileges have education, examination, and experience qualifications that are substantially equivalent to qualifications for a California CPA license. The proposed regulations reflect this decision and direct affected individuals to contact NASBA prior to seeking a California Practice Privilege. The Board also decided to accept NASBA's list of "substantially equivalent" states, that is states that have licensure requirements substantially equivalent to the requirements in California law, with the proviso that the Board will retain the authority to add or subtract states from this list. This decision is not reflected in the proposed regulations because it does not impose any requirements on those seeking or holding Practice Privileges, and therefore does not need to be adopted as a regulation. Instead, the list of "substantially equivalent" states can be approved or modified by Board motion giving the Board the flexibility to make changes more quickly than through the rulemaking process.

- Safe Harbor Provision. The Board concluded that while notice is due on or before commencing practice, to facilitate transition to the new requirements during the first two years the practice privilege law is in effect, there will be no penalty if notice is given within five business days after commencing practice. If the notice is given after this "safe harbor period," a fine will be imposed.

- Failure to Pay Fee Timely. The following procedure was approved to address instances when the fee is not received on time: when it is determined that the payment has not been received, is late, or the payment check is dishonored, an administrative suspension and a fine will be issued. When the fee and the fine are paid, the administrative suspension will be lifted and the practice privilege will continue. The amount of the fine will vary depending upon whether it is the first occurrence or a repeat occurrence.

- Exemptions from Disqualifying Conditions. The statutory provisions list potentially disqualifying conditions in which approval by the Board is necessary before practice

under a practice privilege can begin. However, the Board is authorized to adopt regulations to exempt from being a "disqualifying condition" the occurrence of minor infractions related to a permit to practice. The proposed regulations provide for the following exemptions: 1) an action by a state board of accountancy in which the only sanction was a fine of less than a specified amount or a requirement that the individual complete specified continuing education courses and 2) the revocation of a license other than the license upon which the practice privilege is based solely because of failure to complete continuing education or failure to renew. The amount of the fine referenced in this bullet is scheduled for discussion and action at the January 2005 Task Force and Board meetings.

- Additional Disqualifying Conditions. The statutory provisions also permit the Board to specify additional "disqualifying conditions" through the rulemaking process. The proposed regulations add two: 1) The individual held a practice privilege that expired while under administrative suspension or with an unpaid fine. 2) The individual has been notified by the Board that Board approval is required before practice under a new practice privilege can commence. (This last "disqualifying condition" was added by the Task Force in November 2004, and has not yet been acted upon by the Board.)

- Other Violations Subject to a Fine. The proposed regulations show fines as one of the penalties for failure to report to the Board changes in the information reported on the Notification Form that occurred during the term of the practice privilege and also for failure to respond to Board inquiry.

- Holding a Practice Privilege for Consecutive Years. During the review of the proposed regulations, it became apparent that the draft language could make it difficult for an individual to hold a practice privilege on an ongoing basis for two or more consecutive years because to accomplish this the individual would have to give notice again on the day after the expiration date of the previously held practice privilege. An accidental violation could occur if, for any number of reasons, the individual was unable to submit a new notice on that exact date. To address this concern, language was added to permit a new notice to be submitted prior to the expiration date of the current practice privilege. The new practice privilege would commence on the date of the new notice which would supersede the old notice. (This approach has been approved by the Board President and Task Force Chair, but has not been acted upon by the Task Force or the Board.) It should be noted that while an individual may seek to hold a practice privilege for two or more consecutive years, it was not intended as a long-term substitute for a license.

The proposed regulations approved by the Board at this meeting, after editing by legal counsel, will be scheduled for a regulation hearing at the May 2005 Board meeting. With these time frames, it is anticipated that the regulations will be in place in time for the January 1, 2006, effective date of the statutory provisions.

Attachments

Attachment 1

– DRAFT –

Article 4 – Practice Privileges

Section 24. License or Practice Privilege Needed.

(a) This article implements Article 5.1 of the Accountancy Act (commencing with Business and Professions Code Section 5096).

(b) For purposes of Business and Professions Code Section 5096(c)(1), "the manner prescribed by board regulation" for notifying the Board shall be a form that includes the elements described in Sections 26, 27, 28, and 29.

Section 25. Qualifications for and Term of the Practice Privilege.

(a) To be eligible for a practice privilege, an individual whose principal place of business is not in California and who holds a valid, current license to practice public accountancy issued by another state shall meet the requirements of Business and Professions Code Section 5096 including, but not limited to, satisfying one of the following:

(1) Hold a current, valid license, certificate, or permit from a state determined by the Board to have education, examination, and experience requirements for licensure substantially equivalent to the requirements in Business and Professions Code Section 5093;

(2) Possess education, examination, and experience qualifications that have been determined by the Board to be substantially equivalent to the qualifications under Business and Professions Code Section 5093. Pursuant to subdivision (b) of Business and Professions Code Section 5096, the Board accepts individual qualification evaluations of substantial equivalency by the National Association of State Boards of Accountancy's (NASBA's) CredentialNet. Prior to seeking a practice privilege under this paragraph, an individual shall apply to NASBA's CredentialNet, pay the required fee, and obtain the required substantial equivalency determination. The individual shall disclose the CredentialNet file number in the notification required by Sections 26, 27, 28, and 29 and shall make CredentialNet's determination available to the Board upon request; or

(3) Have continually practiced public accountancy as a Certified Public Accountant under a current, valid license issued by any state for four of the last ten years.

(b) Except as provided in Section 30 for practice commencing on or before December 31, 2007, or in those instances in which prior approval by the Board is required pursuant to Section 32, the practice privilege commences on the date the notification pursuant to Sections 26, 27, 28, and 29 is submitted to the Board. When prior approval by the Board is required pursuant to Section 32, the practice privilege commences on the date the practice privilege is approved by the Board.

(c) A practice privilege, including a practice privilege that is or has been on administrative suspension pursuant to Business and Professions Code Section 5096.4, expires one year from the date the practice privilege notification is submitted to the Board or on the date a subsequent practice privilege notification is submitted to the Board, whichever occurs first.

(d) For purposes of this Article and Business and Professions Code Section 5096, the "license upon which the practice privilege is based" or "the license upon which the substantial equivalency is based" is the license under which the individual qualifies for a practice privilege pursuant to paragraph (1) of subsection (a), or the license in the state of the principal place of business for those who qualify for a practice privilege under paragraphs (2) or (3) of subsection (a).

Section 26. Notification Requirements - General.

To obtain a practice privilege an individual shall notify the Board and, under penalty of perjury, certify the truthfulness of all information provided in the notification. The notification shall include the individual's name, prior names, firm name (if any), address of principal place of business, date of birth, social security number, telephone number, either a fax number or e-mail address, the date of the notification, the individual's signature, either handwritten or an electronic equivalent, the state where the individual holds the license upon which the practice privilege is based including the license number and license issuance date, and any other states where the individual holds a license or licenses or other authority to practice, including the numbers and issuance dates of those licenses. In addition, this notification shall include all of the statements required by Section 27, all the agreements and consents required by Section 28, and all of the additional information required by Section 29.

Section 27. Notification Requirement – Statements.

The notification required to obtain a practice privilege shall include the following statements made by the individual under penalty of perjury under the laws of the State of California:

(a) The individual has a principal place of business that is not in California, and the individual does not have an office in California other than through a firm registered in

California, or the individual is an applicant for licensure under Business and Professions Code Sections 5087 and 5088, whose application is pending.

(b) The individual holds a current, valid license to practice public accountancy in another state.

(c) The individual meets one of the minimum requirements to be eligible for a practice privilege described in subsection (a) of Section 25.

(d) The individual submits the notice at or before the time of beginning the practice of public accountancy in California or within five business days of beginning the practice of public accountancy in California. If the notice is submitted within the five business days after practice begins, the individual identifies the date on which the practice of public accountancy began and explains the reason for the delayed notice.

(e) The individual certifies to having met the continuing education and examination requirements in the state of licensure upon which the practice privilege is based under Section 25(d) of this Article.

(f) The individual concurrently submits to the Board the required fee.

Section 28. Notification Requirement – Agreements and Consents.

The notification required to obtain a practice privilege shall include the following agreements and consents:

(a) The individual agrees to comply with the laws of the State of California including the California Accountancy Act and the Board's regulations.

(b) The individual consents to the personal and subject matter jurisdiction of the Board including the Board's authority to: (1) administratively suspend the practice privilege pursuant to Business and Professions Code Section 5096.4, without prior notice or hearing and in the sole discretion of the Board; (2) impose discipline pursuant to Business and Professions Code Section 5096.3 for any violations of the California Accountancy Act or regulations thereunder and recover costs for investigation and prosecution; and (3) exchange information relating to the practice privilege and/or refer any additional and further discipline to the board of accountancy of any other state, and/or the Securities and Exchange Commission (SEC), Public Company Accounting Oversight Board (PCAOB) or other relevant regulatory authorities.

(c) The individual agrees to respond to a Board inquiry even as to a practice privilege that has expired.

(d) The individual consents to the authority of the Board to verify the accuracy and truthfulness of the information provided in the notification and consents to the release to

the Board of all information relevant to the Board's inquiries even after the privilege has expired by (1) contacting other states, (2) contacting the SEC, PCAOB, or any other federal agency before which the individual is authorized to practice, and (3) contacting NASBA.

(e)The individual agrees to notify the Board in writing within 30 days of any change in the information in the notice which occurs during the term of the practice privilege, including changes that occur while the practice privilege is administratively suspended.

Section 29. Notification Requirement – Additional Information.

The notification required to obtain a practice privilege shall include the following information, the truthfulness of which the individual certifies under penalty of perjury under the laws of the State of California:

(a) The occurrence of any of the events described in subsection (a) of Section 32, each of which may disqualify the individual from a practice privilege, and thus requires Board approval prior to commencement of the practice privilege.

(b) The applicability, or not, of any of the following:

(1) The individual seeks authorization to sign reports on attest engagements, and , if so, has completed 500 hours of attest experience.

(2) The individual is an "associated person of a registered public accounting firm" as used in Section 2 of the Sarbanes-Oxley Act of 2002.

(3) The individual's firm has undergone a peer review within the past three years.

(4) The individual's state of licensure upon which the practice privilege is based under Section 25(d) requires continuing education related to fraud detection, and, if so, the individual has fulfilled this requirement.

(5) Whether the individual currently holds a California practice privilege and when it will expire.

(6) Whether the individual held a California license and the dates the California license was held.

30. Safe Harbor – Period of the Notice.

(a) The notification described in Sections 26, 27, 28, and 29 shall be submitted to the Board on or before the individual begins practice in California under a practice privilege. However, during the period January 1, 2006, through December 31, 2007, an individual shall not be deemed to be in violation of this Article or Article 5.1 of the Accountancy Act (commencing with Business and Professions Code Section 5096) solely because he or she begins the practice of public accounting in California prior to giving notification, provided notification is submitted within five business days of the date practice begins. An individual who gives notification to the Board within the five-day period provided for

in this Section shall be deemed to have a practice privilege from the first day of practice in California.

(b) In addition to any other applicable sanction, the Board may issue a fine of _____ to _____ for notifying the Board more than five business days after beginning practice in California.

31. Payment of the Fee.

The fee required by Section 70(h) must be received by the Board within 30 days of the date of notification.

(a) In addition to any other applicable sanction, an individual is subject to fine of ____ to ____ for the first failure to pay the practice privilege fee within 30 days of the commencement of the practice privilege, including attempting to pay with a check that is subsequently dishonored.

(b) In addition to any other applicable sanction, an individual is subject to fine of _____ to _____ for any subsequent occurrence of failure to pay the practice privilege fee within 30 days, including attempting to pay with a check that is subsequently dishonored.

(c) In addition to the fines described in this Section and any other applicable sanction, an individual is also subject to an administrative suspension for failure to pay the fee, including attempting to pay with a check that is subsequently dishonored. This administrative suspension shall remain in effect until the Board gives its approval for the individual to resume practice and shall not extend the term of the practice privilege.

32. Board Approval Required.

(a) An individual giving a notification pursuant to Sections 26, 27, 28 and 29 who has any of the conditions listed in subsection (c) of this Section may not commence practice under a practice privilege without prior approval of the Board.

(b) A holder of a practice privilege who acquires any of the conditions listed in subsection (c) during the term of the practice privilege shall cease practicing immediately and shall not begin practicing again without prior approval of the Board.

(c) Conditions requiring Board approval to practice under a practice privilege:

(1) The individual is convicted of a crime other than a minor traffic violation.

(2) The individual has had a license or other authority to practice a profession issued by a state, federal, or local agency or court or the Public Company

Accounting Oversight Board (PCAOB) revoked, suspended, denied, surrendered, put on probationary status, or otherwise sanctioned or limited, except for the following occurrences:

(A) An action by a state board of accountancy in which the only sanction was a fine of less than $_____ or a requirement that the individual complete specified continuing education courses.

(B) The revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew.

(3) The individual is the subject of an investigation, inquiry, or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving his or her professional conduct.

(4) The individual has had a judgment or arbitration award in an amount greater than $30,000 entered against him or her in a civil matter involving the professional conduct of the individual.

(5) The individual held a practice privilege in California that expired while under administrative suspension or with an unpaid fine.

(6) The individual has failed to respond to the satisfaction of the Board to a request for information from the Board regarding a matter related to a current or prior practice privilege.

(7) The individual has been notified by the Board that prior Board approval is required before practice under a new practice privilege may commence.

33. Changes to Information in the Notification.

(a) An individual shall report in writing to the Board changes in the information reported on the notification within 30 days of the change.

(b) In addition to any other applicable sanction, an individual is subject to a fine of _____ to _____ for failure to comply with the requirements of this Section.

34. Response to Board Inquiry.

In addition to any other applicable sanction, failure to comply with the obligation to respond to Board inquiry pursuant to Section 5096(e)(5) could result in one or more of the following:

(a) Issuance of a fine of _____ to ____;

(b) An administrative suspension of a current practice privilege pursuant to Business and Professions Code Section 5096.4; or

(c) The requirement to obtain the approval of the Board before commencing to practice under a future practice privilege.

35. Continuing Education Requirement.

An individual practicing under a practice privilege shall meet the continuing education requirements of the state issuing the license upon which the practice privilege is based pursuant to Section 25(d).

Section 70. Fees.

(a) ~~(1) Commencing July 1, 2002, the fees to be charged each California applicant for the paper and pencil certified public accountant examination, including each applicant for re-examination, shall be an application fee of $60 and a fee of $36 for each part of the examination requested by the applicant.~~
~~(2) The fee to be charged each applicant from another state who sits for the paper and pencil certified public accountant examination in California shall be a total of $75.~~
~~(3)~~ Commencing January 23, 2004 the fee to be charged each California applicant for the computer-based Uniform Certified Public Accountant Examination, shall be an application fee of $100 for issuance of the Authorization to Test to first-time applicants and an application fee of $50 for issuance of the Authorization to Test to repeat applicants.

(b) Commencing July 1, 2001, the fee to be charged each applicant for issuance of a certified public accountant certificate shall be $250.

(c) The fee to be charged each applicant for registration, including applicant for registration under a new name as a partnership or as a corporation, shall be $150.

(d) Commencing July 1, 2000, the fee to be charged each applicant for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be $200.

(e) Commencing July 1, 2000, the fee to be charged each applicant for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be $200.

(f) The fee for the processing and issuance of a duplicate copy of a certificate of licensure or registration shall be $10.

(g) The fee for processing and issuance of a duplicate copy of a registration, or permit or other form evidencing licensure or renewal of licensure shall be $2.

(h) Commencing January 1, 2006, the fee to be charged an individual for a practice privilege pursuant to Business and Professions Code Section 5096 shall be $100.

Note: Authority cited: Section 5010 and 5018, Business and Professions Code. Reference: Sections 122, 163 and 5134 Business and Professions Code.

Attachment 2

– DRAFT –

Article 4 – Practice Privileges

Section 26. Purpose of this Article.

This Article implements Article 5.1 of the Accountancy Act (commencing with Business and Professions Code Section 5096) related to Practice Privileges.

Section 27. Qualifications for the Practice Privilege.

To be eligible for a practice privilege, an individual whose principal place of business is not in California and who holds a valid, current license to practice public accountancy issued by another state shall meet the requirements of Business and Professions Code Section 5096 including, but not limited to, satisfying one of the following:

(a) Hold a current, valid license, certificate, or permit from a state determined by the Board to have education, examination, and experience requirements for licensure substantially equivalent to the requirements in Business and Professions Code Section 5093;

(b) Possess education, examination, and experience qualifications that have been determined by the Board to be substantially equivalent to the qualifications under Business and Professions Code Section 5093. Pursuant to subdivision (b) of Business and Professions Code Section 5096, the Board accepts individual qualification evaluations of substantial equivalency by the National Association of State Boards of Accountancy's (NASBA's) CredentialNet. Prior to seeking a practice privilege under this paragraph, an individual shall apply to NASBA's CredentialNet, pay the required fee, and obtain the required substantial equivalency determination. The individual shall report the NASBA file number on the Notification Form submitted pursuant to Section 28 and shall authorize the Board to review the NASBA file upon request; or

(c) Have continually practiced public accountancy as a Certified Public Accountant under a current, valid license issued by any state for four of the last ten years.

28. Notification.

(a) To obtain a practice privilege, an individual meeting the requirements of Section 27 shall notify the Board by submitting the fully completed Notification Form provided at the end of this Section or the electronic equivalent provided by the Board on its Web site, and shall pay the fee as required by Sections 31 and 70.

(b) The license which shall be reported on Item 3 of "Qualification Requirements" on the Notification Form and "the license upon which the substantial equivalency is based" referenced in subdivision (e) of Business and Professions Code Section 5096 is the license under which an individual qualifies for a practice privilege pursuant to subsection (a) of Section 27, or the license in the state of the principal place of business for an individual who qualifies for a practice privilege under subsection (b) or (c) of Section 27.

(c) The electronic version of the Notification Form shall provide for a certification and electronic signature as follows:

> I understand that any misrepresentation or omission in connection with this notification disqualifies me from the California practice privilege and is cause for termination. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. By typing my name in the box below and clicking the "I Agree" button I certified under penalty of perjury under the laws of the Sate of California that the information contained in this notice is true and correct. If I am not prepared to so certify, I understand that I should click the "Cancel" button to discontinue the notification process.
>
> Full name
>
> I Agree
> Cancel

DRAFT

CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
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NOTIFICATION AND AGREEMENT TO CONDITIONS FOR THE PRIVILEGE TO PRACTICE PUBLIC ACCOUNTING IN CALIFORNIA PURSUANT TO CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 5096 AND TITLE 16, DIVISION 1, ARTICLE 4 OF THE CALIFORNIA CODE OF REGULATIONS:

Name: _____ Prior Name(s): _____

Firm Name: _____

Address Of Principal Place Of Business: _____

Telephone Number (business hours): _____ Fax Number (business hours): _____ Business E-mail: _____

Date Of Birth: ____/____/_____ Social Security Number: _____

QUALIFICATION REQUIREMENTS:

1. I am an individual.

2. ☐ My principal place of business is not in California and I do not have an office in California other than through a firm that is registered in California and of which I am an employee; **OR**

   ☐ I have a pending application for licensure in California under Sections 5087 and 5088.

3. I qualify for a practice privilege based on my current, valid license to practice public accountancy in the following state:

   State: _____ License Number: _____ Date Issued: _____

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

   ☐ b. My individual qualifications have been determined by NASBA to be substantially equivalent (NASBA file no. _____); **OR**

   ☐ c. I have continually practiced public accountancy as a certified public accountant under a valid license issued by any state for 4 of the last 10 years.

5. I agree to comply with the laws of the State of California, including the California Accountancy Act (Business and Professions Code Section 5000 et seq., accessible at *http://www.dca.ca.gov/cba/acnt_act.htm*) and the regulations thereunder (accessible at *http://www.dca.ca.gov/cba/regs.htm*).

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

7. I agree to respond fully and completely to all inquiries by the CBA relating to my California practice privilege, including after the expiration of this privilege.

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

9. I am submitting this notice to the CBA:

☐ at or before the time I begin the practice of public accountancy in California; **OR**

☐ if submitted before December 31, 2007, within five business days after I began the practice of public accountancy in California on __/__/__. My reason(s) for not providing notice on or before that date:

_____

_____

10. I have met the continuing education requirements and any exam requirements for the state of licensure identified in item 3 above.

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

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

ATTEST REQUIREMENTS:

I wish to be able to sign an attest report under this practice privilege and I have at least 500 hours of experience in attest services. ☐ Yes ☐ No

ADDITIONAL INFORMATION (Required):

Do you currently hold a California Practice Privilege? ☐ Yes ☐ No

When does it expire? _____

Have you ever held a California CPA/PA license? ☐ Yes ☐ No

If so, please provide the license number: _____

In addition to the state of licensure identified in item 3, I am also authorized to practice in the following:

State: _____ License Number: _____ Other Authority: _____

_____ _____ Other Authority: _____

State: _____ License Number: _____ _____

I am an associated person of a firm registered with the PCAOB. ☐ Yes ☐ No

My firm has undergone peer review within the last three years. ☐ Yes ☐ No

The state of licensure identified in item 3 requires continuing education in fraud detection and I have fulfilled this requirement. ☐ Yes ☐ No

DISQUALIFYING CONDITIONS:

Please check any of the items below that apply. *For any checked items in (1)-(6), you must provide additional information as requested in Attachment X and* ***you are not authorized to practice in California unless and until you receive notice from the CBA that the privilege has been granted.***

☐ 1. I have been convicted of a crime other than a minor traffic violation.

☐ 2. I have had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned except for the following occurrences:

(A) an action by a state board of accountancy in which the only sanction was a fine of less than $_____ or a requirement that the individual complete specified continuing education courses.

(B) the revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew.

☐ 3. I am currently the subject of an investigation, inquiry or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving my professional conduct.

☐ 4. I have an unresolved administrative suspension or an unpaid fine related to a prior California practice privilege.

☐ 5. I did not respond to a request for information from the Board related to a prior practice privilege.

☐ 6. I have had a judgment or arbitration award against me involving my professional conduct in the amount of $30,000 or greater.

I, _____, understand that any misrepresentation or omission in connection with this notification disqualifies me from the California practice privilege and is cause for termination. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. I certify under penalty of perjury under the laws of the State of California that the foregoing information is true and correct.

Signature: _____ Date: _____

Your privilege to practice commences with the submission of your completed notification and your fee. Your privilege expires one year from the date of this notice.

State of California Department of Consumer Affairs

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ATTACHMENT X

1. If you checked any of items 1 - 6 under disqualifying conditions, please provide explanatory details:

_____

_____

_____

2. If you checked item 6 under disqualifying conditions, please also provide:

Date of Judgment/ Arbitration Award: _____ Jurisdiction/Court: _____ Docket No: _____

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

Section 29. Term of the Practice Privilege.

(a) Except as provided in Section 30 for practice commencing on or before December 31, 2007, or in those instances in which prior approval by the Board is required pursuant to Section 32, the practice privilege commences on the date the Notification Form is submitted to the Board. When prior approval by the Board is required pursuant to Section 32 the practice privilege commences on the date the practice privilege is approved by the Board.

(b) A practice privilege, including a practice privilege that is or has been on administrative suspension pursuant to Business and Professions Code Section 5096.4, expires one year from the date the Notification Form is submitted to the Board or on the date a subsequent Notification Form is submitted to the Board, whichever occurs first.

30. Safe Harbor – Period of the Notice.

(a) The Notification Form required pursuant to Section 28 shall be submitted to the Board on or before the individual begins practice in California under a practice privilege. However, during the period January 1, 2006, through December 31, 2007, an individual shall not be deemed to be in violation of this Article or Article 5.1 of the Accountancy Act (commencing with Business and Professions Code Section 5096) solely because he or she begins the practice of public accounting in California prior to submitting the Notification Form, provided the Notification Form is submitted within five business days of the date practice begins. An individual who submits the Notification Form to the Board within the five-day period provided for in this Section shall be deemed to have a practice privilege from the first day of practice in California.

(b) In addition to any other applicable sanction, the Board may issue a fine of _____ to _____ for notifying the Board more than five business days after beginning practice in California.

31. Payment of the Fee.

The fee required by Section 70(h) must be received by the Board within 30 days of the date the Notification From is submitted to the Board.

(a) In addition to any other applicable sanction, an individual is subject to fine of ____ to ____ for the first failure to pay the practice privilege fee within 30 days of the commencement of the practice privilege, including attempting to pay with a check that is subsequently dishonored.

(b) In addition to any other applicable sanction, an individual is subject to fine of _____ to _____ for any subsequent occurrence of failure to pay the practice privilege fee

within 30 days, including attempting to pay with a check that is subsequently dishonored.

(c) In addition to the fines described in this Section and any other applicable sanction, an individual is also subject to an administrative suspension for failure to pay the fee, including attempting to pay with a check that is subsequently dishonored. This administrative suspension shall remain in effect until the Board gives its approval for the individual to resume practice and shall not extend the term of the practice privilege.

32. Board Approval Required.

(a) An individual submitting a Notification Form pursuant to Section 28 who has any of the conditions listed in subsection (c) of this Section may not commence practice under a practice privilege without prior approval of the Board.

(b) A holder of a practice privilege who acquires any of the conditions listed in subsection (c) of this Section during the term of the practice privilege shall cease practicing immediately and shall not begin practicing again without prior approval of the Board.

(c) Conditions requiring Board approval to practice under a practice privilege:

(1) The individual is convicted of a crime other than a minor traffic violation.

(2) The individual has had a license or other authority to practice a profession issued by a state, federal, or local agency or court or the Public Company Accounting Oversight Board (PCAOB) revoked, suspended, denied, surrendered, put on probationary status, or otherwise sanctioned or limited, except for the following occurrences:

(A) An action by a state board of accountancy in which the only sanction was a fine of less than $_____ or a requirement that the individual complete specified continuing education courses.

(B) The revocation of a license or other authority to practice public accountancy, other than the license identified in Item 3 of the Qualification Requirements on the Notification Form, solely because of failure to complete continuing education or failure to renew.

(3) The individual is the subject of an investigation, inquiry, or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving his or her professional conduct.

(4) The individual has had a judgment or arbitration award in an amount greater than $30,000 entered against him or her in a civil matter involving the professional conduct of the individual.

(5) The individual held a practice privilege in California that expired while under administrative suspension or with an unpaid fine.

(6) The individual has failed to respond to the satisfaction of the Board to a request for information from the Board regarding a matter related to a current or prior practice privilege.

(7) The individual has been notified by the Board that prior Board approval is required before practice under a new practice privilege may commence.

33. Changes to Information on the Notification.

(a) An individual shall report in writing to the Board changes in the information reported on the Notification Form within 30 days of the change.

(b) In addition to any other applicable sanctions, an individual is subject to a fine of _____ to _____ for failure to comply with the requirements of this Section.

34. Response to Board Inquiry.

In addition to any other applicable sanction, failure to comply with the obligation to respond to Board inquiry pursuant to Section 5096(e)(5) could result in one or more of the following:

(a) Issuance of a fine of _____ to ____;

(b) An administrative suspension of a current practice privilege pursuant to Business and Professions Code Section 5096.4; or

(c) The requirement to obtain the approval of the Board before commencing to practice under a future practice privilege.

35. Continuing Education Requirement.

An individual practicing under a practice privilege shall meet the continuing education requirements of the state of licensure identified in Item 3 of the Qualification Requirements on the Notification Form.

Section 70. Fees.

(a) ~~(1) Commencing July 1, 2002, the fees to be charged each California applicant for the paper and pencil certified public accountant examination, including each applicant~~

~~for re-examination, shall be an application fee of $60 and a fee of $36 for each part of the examination requested by the applicant.~~
~~(2) The fee to be charged each applicant from another state who sits for the paper and pencil certified public accountant examination in California shall be a total of $75.~~
~~(3)~~ Commencing January 23, 2004 the fee to be charged each California applicant for the computer-based Uniform Certified Public Accountant Examination, shall be an application fee of $100 for issuance of the Authorization to Test to first-time applicants and an application fee of $50 for issuance of the Authorization to Test to repeat applicants.

(b) Commencing July 1, 2001, the fee to be charged each applicant for issuance of a certified public accountant certificate shall be $250.

(c) The fee to be charged each applicant for registration, including applicant for registration under a new name as a partnership or as a corporation, shall be $150.

(d) Commencing July 1, 2000, the fee to be charged each applicant for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be $200.

(e) Commencing July 1, 2000, the fee to be charged each applicant for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be $200.

(f) The fee for the processing and issuance of a duplicate copy of a certificate of licensure or registration shall be $10.

(g) The fee for processing and issuance of a duplicate copy of a registration, or permit or other form evidencing licensure or renewal of licensure shall be $2.

(h) Commencing January 1, 2006, the fee to be charged an individual for a practice privilege pursuant to Business and Professions Code Section 5096 shall be $100.

Note: Authority cited: Section 5010 and 5018, Business and Professions Code. Reference: Sections 122, 163 and 5134 Business and Professions Code.

State of California Department of Consumer Affairs

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Attachment 3

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY

FINAL

MINUTES OF THE
September 10, 2004
BOARD MEETING

The Hyatt Regency Hotel
1209 L Street
Sacramento, CA 95815
Telephone: (916) 443-1234
Facsimile: (916) 321-3099

I. Call to Order.

President Ian B. Thomas called the meeting to order at 8:35 a.m. on Friday, September 10, 2004, at the Hyatt Regency Hotel in Sacramento and immediately convened into closed session to consider Agenda Items X.A-E. The Board reconvened into open session at 10:10 a.m. The Board reconvened into closed session at 11:55 a.m., broke for lunch at 12:06 p.m., and reconvened at 1:30 p.m. The Board adjourned at 3:35 p.m.

Board Members	September 10, 2004
Ian B. Thomas, President	8:35 a.m. to 3:35 p.m.
Renata Sos, Vice President	8:35 a.m. to 3:35 p.m.
Stuart Waldman, Secretary-Treasurer	8:35 a.m. to 3:35 p.m.
Ronald Blanc	8:35 a.m. to 3:35 p.m.
Richard Charney	8:35 a.m. to 3:35 p.m.
Ruben Davila	Absent
Donald Driftmier	8:35 a.m. to 3:35 p.m.
Charles Drott	8:35 a.m. to 3:35 p.m.
Sally A. Flowers	8:35 a.m. to 3:35 p.m.
Sara Heintz	8:35 a.m. to 3:35 p.m.
Gail Hillebrand	8:35 a.m. to 3:35 p.m.
Thomas Iino	8:35 a.m. to 3:35 p.m.
Clifton Johnson	8:35 a.m. to 3:35 p.m.

public accountancy as it relates to Internet practice was referred from the Practice Privilege Task Force due to the impact of new practice privilege legislation.

3. Proposed Recommendation Regarding the Definition of the Practice of Public Accountancy in California as it Relates to:

   a. Internet Practice.

   b. Correspondence Practice.

   c. Litigation Support.

   Mr. Drott indicated that once SB 1543 (practice privilege legislation) is signed, there will only be two ways to legally practice public accountancy in California, obtaining a license or a practice privilege. He noted that EPOC discussed the definition of public accountancy in Section 5051 and whether it needed to be changed, and the Committee determined that it was currently broad enough and there was no need for changes at this time.

   Mr. Shultz indicated that NASBA's UAA Rules Committee was in the process of setting up a task force to address these same issues relating to Internet practice.

   The EPOC unanimously decided to recommend to the Board that during the period between the signing of SB 1543 and its implementation in January 2006, staff will catalog the questions and issues that arise and they will be brought back to the Board for further consideration. This will also allow the opportunity for NASBA's task force to complete its study of Internet practice. No further action was determined necessary at this time. The Board concurred with the EPOC's recommendation.

4. Proposed Recommendation Regarding the Definition of any Areas for Study by the Administrative Committee.

   Mr. Drott reported that based on the recommendation for Agenda Item VIII.E.3 above, no further study by the Administrative Committee was necessary and the Board concurred.

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

1. Minutes of the July 15, 2004, Practice Privilege Task Force Meeting.

The minutes of the July 15, 2004, Practice Privilege Task Force meeting were adopted on the Consent Agenda. (See Agenda Item XI.B.)

2. Report on the September 9, 2004, Practice Privilege Task Force Meeting.

   Ms. Sos reported that the Task Force met yesterday, had a very productive meeting, and discussed the agenda items listed below. She acknowledged and thanked the Task Force, Ms. Sigmann and staff, Ms. D'Angelo Fellmeth and Mr. Robinson.

3. Update on Status of Practice Privilege Legislation.

   No report was given on this agenda item.

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

   Ms. Sos reported that there are three ways for an individual to qualify for a practice privilege: qualify under the "4 of 10" rule, hold a license in a "substantially equivalent" jurisdiction, or be deemed "substantially equivalent" as an individual, for example through a review by CredentialNet. Ms. Sos noted that the legislation gives the Board the authority to determine what "substantially equivalent" means and to decide whether it will make those determinations or accept the determinations made by an entity such as NASBA. Ms. Sos reported that Ms. Rubin attended the meeting to talk with the Task Force about substantial equivalency from NASBA's perspective. Ms. Sos indicated that Ms. Rubin was the incoming Vice Chair of NASBA and a former Board member. One issue of concern to the Task Force was the role of ethics requirements in the substantial equivalency determinations. Ms. Rubin indicated that ethics considerations are already embedded in the exam, experience and education requirements as well as in professional standards.

   Mr. Blanc asked Ms. Sos to expand on the discussion related to ethics. Ms. Sos reported that the Uniform CPA Examination has an ethics component to it and that within the professional standards is GAAS 2, the independence standard which is one of the cornerstones of auditing standards. Ms. Sos noted that NASBA recognizes the disparity in the states, and its Education Committee is recommending to the full NASBA Board of Directors that the 150-hour education requirement in the UAA have an ethics component.

NASBA is also exploring the possibility of offering a uniform ethics course to be available in all states.

After discussion, **it was moved by Mr. Driftmier, seconded by Mr. Johnson, and unanimously carried to accept NASBA's designation of states as substantially equivalent while continuing to monitor and add or subtract states as necessary. The motion also included accepting NASBA's CredentialNet certification of individuals as substantially equivalent with the flexibility to reject or deny individuals if the Board determines that they are not substantially equivalent.**

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

   See Agenda Item VIII.F.4.

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

   Ms. Sos reported that the practice privilege commences upon valid notification. However, issues came up as to whether there should be a period of time after practice begins and when the notification could still be submitted to the Board without penalty. Ms. Sos indicated that the Board wants to encourage compliance and notification, but also wants to ensure that no consumer harm could occur.

   It was moved by Mr. Blanc, seconded by Ms. Flowers, and carried that notice is due on or before commencing to practice but there will be no penalty if the notice is given within five business days of commencing practice. This regulation will remain in effect for two years for transition purposes. There will be a question added to the notification form asking for the reason for the late notification. The form will also require the date of notification and the date the practice privilege commenced. This information will be used to assess whether the "safe harbor" period should be continued, modified, or eliminated after the two-year transition period. If a notice is submitted after the five-business day "safe harbor" period, a fine will be imposed. The amount of the fine and the process for imposing it would be the subject of further staff review and recommendation.

Ms. Hillebrand requested that the minutes reflect that this recommendation was not a unanimous decision of the Task Force. She appreciates the creative thinking done by the public participants but still believes that, as a matter of policy, the concept that makes practice privilege acceptable in lieu of a license is that the Board is aware of who intends to practice in California before they begin. She indicated that she remained in dissent.

7. Consideration of the Procedure if the Individual's Fee is not Received on Time or the Check is Dishonored.

   Ms. Sos reported that the Task Force recommended the following procedure to address payment issues: at such time as it is determined that the payment has not been received, is late, or the check is dishonored and these circumstances are not the result of an administrative error by the Board, the Board shall issue an administrative suspension and a fine for failure to pay timely. When the fee and the fine are paid, the administrative suspension will be lifted and the practice privilege will continue. The amount of the fine will vary depending upon whether it is the first occurrence or a repeat occurrence. Ms. Sos indicated that staff would recommend the fine levels and the process for imposing the fine.

   It was moved by Dr. Charney, seconded by Mr. Blanc, and unanimously carried to adopt the Task Force's recommendations.

8. Consideration of the Standards and Process for Determining how the Disqualifying Conditions may Result in Denial of the Practice Privilege.

   Ms. Sos reported that the Task Force concurred with Mr. Newington's recommendation and directed staff to proceed as outlined in the memo provided for this agenda item using criteria consistent with the way Licensing and Enforcement staff address similar issues related to applications for licensure. **(See Attachment 4.)** The Board concurred with the Task Force's recommendation.

9. Consideration of What, if any, Additional Disqualifying Conditions Should be Specified by Regulations.

   Ms. Sos reported that the Task Force recommended that the Board adopt a regulation to clarify that it is a "disqualifying condition" to have an unresolved administrative suspension.

It was moved by Ms. Flowers, seconded by Ms. Hillebrand, and unanimously carried to adopt the Task Force's recommendation.

10. Consideration of What Minor Infractions Related to Licensing Should be Exempted From the Disqualifying Conditions.

Ms. Sos reported that the Task Force recommended that two categories of minor infractions: infractions resulting in administrative citations with fines of $5,000 or less and infractions in which the only penalty is additional continuing professional education, should be exempted from the disqualifying conditions. **(See Attachment 5.)** The Task Force also recommended that staff study the specific dollar amount and bring a recommendation back to the Board for its consideration.

It was moved by Mr. Driftmier, seconded by Mr. Johnson, and unanimously carried to adopt the Task Force's recommendation.

11. Consideration of What Should be the Criteria and Level of Discretion for Administrative Suspension.

Ms. Sos reported that the Task Force recommended that the following items identify the criteria for administrative suspension.

- False representations made in the notice.
- The individual's lack of competence or qualifications to practice under the practice privilege in question.
- The individual's failure to timely respond to a Board inquiry or request for information or documents.

It was moved by Mr. Swartz, seconded by Ms. Flowers, and unanimously carried to adopt the Task Force's recommendation.

IX. Examination Appeals – Personal/Written.

A. Personal / Written Appeals – None.

X. Recommendations of CPA Qualifications Committee.

A. Appeals.

1. Personal / Written Appearances – None.

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Attachment 4

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY

DRAFT

MINUTES OF THE November 19, 2004 BOARD MEETING

The Crowne Plaza Hotel
5985 West Century Blvd.
Los Angeles, CA 90045-5463
Telephone: (310) 642-7500
Facsimile: (310) 342-7010

I. Call to Order.

President Ian B. Thomas called the meeting to order at 9:02 a.m. on Friday, November 19, 2004, at the Crowne Plaza Hotel in Los Angeles and ALJ Magnuson and the Board heard Agenda Item XI.A. The Board then convened into closed session to deliberate and consider Agenda Items X.B-I. The Board reconvened into open session at 11:46 a.m. The Board broke for lunch at 12:24 p.m. and reconvened at 1:28 p.m. The Board adjourned at 2:32 p.m.

Board Members	November 19, 2004
Ian B. Thomas, President	9:02 a.m. to 2:32 p.m.
Renata Sos, Vice President	9:02 a.m. to 2:32 p.m.
Stuart Waldman, Secretary-Treasurer	9:02 a.m. to 2:32 p.m.
Ronald Blanc	9:02 a.m. to 2:32 p.m.
Richard Charney	9:02 a.m. to 2:32 p.m.
Ruben Davila	9:25 a.m. to 2:32 p.m.
Donald Driftmier	9:02 a.m. to 2:32 p.m.
Charles Drott	Absent
Sally A. Flowers	11:30 a.m. to 2:32 p.m.
Sara Heintz	9:02 a.m. to 2:32 p.m.
Gail Hillebrand	9:02 a.m. to 2:32 p.m.
Thomas Iino	9:02 a.m. to 2:32 p.m.

needed to address this matter. Instead, staff were directed to develop questions and answers to provide general guidance to practitioners in this subject area.

It was moved by Ms. Hillebrand, seconded by Mr. Driftmier, and unanimously carried to adopt the revised language.

E. Enforcement Program Oversight Committee (EPOC).

1. Draft Minutes of the September 9, 2004, EPOC Meeting.

   The draft minutes of the September 9, 2004, EPOC meeting were adopted on the Consent Agenda adding that Mr. Driftmier was in attendance. (See Agenda Item XII.B.)

F. Practice Privilege Task Force (PPTF).

1. Minutes of the September 9, 2004, Practice Privilege Task Force Meeting.

   The minutes of the September 9, 2004, Practice Privilege Task Force meeting were adopted on the Consent Agenda. (See Agenda Item XII.B.)

2. Minutes of the October 5, 2004, Practice Privilege Task Force Meeting.

   It was moved by Mr. Thomas, seconded by Mr. Driftmier, and unanimously carried to adopt the October 5, 2004, Practice Privilege Task Force minutes changing the date on Agenda Item I from July 15, 2004, to September 9, 2004.

3. Report on the October 5, 2004, Practice Privilege Task Force Meeting.

   Ms. Sos thanked Ms. Sigmann and her staff for their incredible work during the nine-month process of getting the practice privilege statute from concept to signed legislation. Mr. Thomas also congratulated Ms. Sos for her hard work throughout the process and indicated that the Board owed a tremendous debt of gratitude to her for spearheading this project. Ms. Sos thanked the Task Force, Ms. D'Angelo Fellmeth, Mr. Duffey, and Mr. Robinson for working with the Board on this from the beginning.

   a. Recommendation Regarding a Process to Address Changes in Reported Information That Occur During the Term of the Practice

Privilege.

As background, Ms. Sos reported that under the usual practice privilege process, an individual provides the notification and fee to the Board and then may begin practicing under the privilege. However, there are certain disqualifying conditions which will prevent the individual from getting a privilege without approval by the Board. Ms. Sos indicated that the Task Force developed a procedure to address the situation in which a disqualifying condition occurs during the one-year term of the practice privilege. Ms. Sos noted that the Task Force was recommending Board approval of this procedure which is outlined in Ms. Granick's November 5, 2004, memo **(Attachment ___.)** with one modification: if a disqualifying condition occurs during the term of the practice privilege, the individual is obligated to cease the practice of public accountancy in California immediately.

It was moved by Ms. Sos, seconded by Mr. Driftmier, and unanimously carried to adopt the Task Force's recommendation.

b. Recommendation Regarding Whether it Should be a Disqualifying Condition to Have an Unpaid Fine Related to Practice Privileges.

Ms. Sos reported that the Board is empowered by statute to impose by regulation disqualifying conditions in addition to the ones specified in statute. Ms. Sos noted that this Board has already specified that it is a disqualifying condition to have an unresolved administrative suspension and to fail to respond to a Board inquiry. The Task Force is recommending to the Board that it also be a disqualifying condition to have an unpaid fine related to a prior practice privilege.

It was moved by Ms. Sos, seconded by Mr. Swartz, and unanimously carried to adopt the Task Force's recommendation.

4. Report on the November 18, 2004, Practice Privilege Task Force Meeting.

See Agenda Item VIII.F.4.b.

a. Consideration of a Method for Verification of Attest Experience Through Random Audit.

State of California
Department of Consumer Affairs

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Memorandum

Practice Privilege TF Agenda Item IV.A.
January 20, 2005

Board Agenda Item VIII.F.5.a.
January 21, 2005

To : Practice Privilege Task Force Members
Board Members

Date : January 11, 2005

Telephone : (916) 561-3788
Facsimile : (916) 263-3674
E-mail : awong@cba.ca.gov

From : Aronna Wong
Legislation/Regulations Coordinator

Subject : Findings from OAL Regarding the Form in the Regulations

Attached as background information for your consideration of whether to place the form in the regulations is an e-mail from OAL (Attachment 1) discussing this subject and the subject of the on-line interactive form. Also attached are the federal law and state regulations referenced in the OAL e-mail (Attachments 2 and 3).

Attachments

"Reference Attorney" <RA@oal.ca.gov> on 12/03/2004 11:32:06 AM

To: <agranick@cba.ca.gov>
cc:

Subject: RE: Putting a form in regulations - on-line interactive form

The Administrative Procedure Act was written before anybody even contemplated an on-line form. In fact, it was written before fax machines became common. Consequently, it doesn't provide particularly explicit guidance on these questions, either for rulemaking entities or for the OAL. You obviously can't include a computer and monitor in your rulemaking file. Your general approach, therefore, should be to look at satisfying the intent of the APA–providing the public with a clear opportunity to review and understand the rules they are being asked to follow.

Regarding submission of the on-line form in the rulemaking file, you will probably have to use some type of descriptive reference to the on-line form. In terms of public interest, the question of what information you are seeking is obviously more significant than the question of how the form is laid out. If you cannot print a facsimile of the interactive form for inclusion in the rulemaking file, you can make a strong argument that you have provided adequate notice and opportunity to comment if you have a provision in the regulations saying that there will be an interactive form on-line and that the information collected will be the same as the information required on the paper form. Since the question of what information is collected is more important than the layout of the form, if you take this approach you are complying about as much as you can. This also makes it clear that you cannot modify the required information for the on-line form without also amending the paper form, and vice versa, which would require another rulemaking.

There are a couple of laws governing electronic signatures. One is the federal "E-sign" law (see attached). Another is the CA Secretary of State regulation on digital signatures (2 CCR 22000, *et seq.*) I don't know which, if either, of these laws would apply in your case, but you will obviously need to have some way to ensure the validity of electronic signatures. You could simply adopt the appropriate requirements from an external law into your regulations (i.e., reprint them as part of your own proposal), or you could incorporate the governing law by reference.

Bear in mind that if your proposal adopts another jurisdiction's laws or another state agency's regulations through incorporation by reference, it fixes your regulation to the specific version in effect at the time of your rulemaking. In other words, if you incorporate the federal E-sign law as currently in effect and the federal government subsequently changes that law, you will either need to require continued compliance with the pre-amendment version incorporated by reference in your rule, or amend your rule to refer to the new version.

I hope this is helpful. Please do not hesitate to contact us if you have further questions.

OAL Reference Attorney

<<E-Sign.pdf>>

From: agranick@cba.ca.gov [mailto:agranick@cba.ca.gov]
Sent: Friday, December 03, 2004 9:47 AM
To: Reference Attorney
Subject: Putting a form in regulations - on-line interactive form

Barbara Eckard called and recommended that I forward this question to you. If you want to call me rather than e-mail me, I can be reached at (916) 561-1788.
I will be leaving at noon today, but will be in all next week.
I look foward to hearing from you.

Aronna Granick
California Board of Accountancy

---------- Forwarded by Aronna Granick/BoardOfAccountancy on 12/03/2004 09:42 AM ----------

To: "Barbara Eckard" <beckard@oal.ca.gov>
cc: Mary Crocker@BoardOfAccountancy

Subject: Putting a form in regulations

Barbara,

As you recall we recently talked about the option our (Board of Accountancy) would have for putting a form in regulations. I appreciate all of the help you have provided and hope you had a great Thanksgiving holiday. I was going over my notes from our last Board meeting, and I realize 2 questions still remain:

1) In addition to a paper form that people will be able to fill out and mail or fax to us, we also plan to have an on-line, interactive form for practitioners to fill out. The on-line form will be set up so the contents will go directly into a database. We would be seeking the same information on both the paper and on-line versions of the form. However I've been told that in order for the on-line form to make sense to the people completing it, it might to necessary for the questions and structure in the on-line form to vary slightly from the questions and structure that would be used in the paper form. So, while all of the information we would be requesting would be the same, there could be variations in the language we use to request this information. How should we approach putting the form in regs under these circumstances? Would it be sufficient to put the paper version of the form in the regs and indicate there will also be an on-line equivalent?

We have the paper version ready and it could be included with our regs notice, however the on-line version will need additional time to develop. If we need to have it ready prior to beginning the rulemaking

process, it could make it difficult for us to have regs in place in time for the January 1, 2006, start date of the program.

2) The paper version of the form has a place for a signature. The on-line form would have an electronic signature. How would we address this in regulations. I was considering having a provision in the regulation which included the language we intend to use for the electronic signature. Would that approach be acceptable? Is there another, simpler way you could recommend?

I look forward to hearing from you and receiving help with these questions. I recall you indicated that you would check with people in your office who were knowledgeable about computer and IT questions to see if you could get more information. I'd be happy to talk directly with that person or forward this e-mail to them. I look forward to hearing from you regarding how to proceed. If there is someone else I need to talk to, could you provide the phone number? or they can call me at 561-1788.

Thanks for your help.

– Aronna Granick

- E-Sign.pdf

Attachment 2

PUBLIC LAW 106–229—JUNE 30, 2000

ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

Public Law 106–229
106th Congress

An Act

June 30, 2000
[S. 761]

To facilitate the use of electronic records and signatures in interstate or foreign commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Electronic Signatures in Global and National Commerce Act.
Contracts.
15 USC 7001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Electronic Signatures in Global and National Commerce Act".

TITLE I—ELECTRONIC RECORDS AND SIGNATURES IN COMMERCE

15 USC 7001.

SEC. 101. GENERAL RULE OF VALIDITY.

(a) IN GENERAL.—Notwithstanding any statute, regulation, or other rule of law (other than this title and title II), with respect to any transaction in or affecting interstate or foreign commerce—

(1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and

(2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.

(b) PRESERVATION OF RIGHTS AND OBLIGATIONS.—This title does not—

(1) limit, alter, or otherwise affect any requirement imposed by a statute, regulation, or rule of law relating to the rights and obligations of persons under such statute, regulation, or rule of law other than a requirement that contracts or other records be written, signed, or in nonelectronic form; or

(2) require any person to agree to use or accept electronic records or electronic signatures, other than a governmental agency with respect to a record other than a contract to which it is a party.

(c) CONSUMER DISCLOSURES.—

(1) CONSENT TO ELECTRONIC RECORDS.—Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that information relating to a transaction or transactions in or affecting interstate or foreign commerce be provided or made available to a consumer in writing, the use of an electronic record to provide or make available (whichever

is required) such information satisfies the requirement that such information be in writing if—

(A) the consumer has affirmatively consented to such use and has not withdrawn such consent;

(B) the consumer, prior to consenting, is provided with a clear and conspicuous statement—

(i) informing the consumer of (I) any right or option of the consumer to have the record provided or made available on paper or in nonelectronic form, and (II) the right of the consumer to withdraw the consent to have the record provided or made available in an electronic form and of any conditions, consequences (which may include termination of the parties' relationship), or fees in the event of such withdrawal;

(ii) informing the consumer of whether the consent applies (I) only to the particular transaction which gave rise to the obligation to provide the record, or (II) to identified categories of records that may be provided or made available during the course of the parties' relationship;

(iii) describing the procedures the consumer must use to withdraw consent as provided in clause (i) and to update information needed to contact the consumer electronically; and

(iv) informing the consumer (I) how, after the consent, the consumer may, upon request, obtain a paper copy of an electronic record, and (II) whether any fee will be charged for such copy;

(C) the consumer—

(i) prior to consenting, is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and

(ii) consents electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access information in the electronic form that will be used to provide the information that is the subject of the consent; and

(D) after the consent of a consumer in accordance with subparagraph (A), if a change in the hardware or software requirements needed to access or retain electronic records creates a material risk that the consumer will not be able to access or retain a subsequent electronic record that was the subject of the consent, the person providing the electronic record—

(i) provides the consumer with a statement of (I) the revised hardware and software requirements for access to and retention of the electronic records, and (II) the right to withdraw consent without the imposition of any fees for such withdrawal and without the imposition of any condition or consequence that was not disclosed under subparagraph (B)(i); and

(ii) again complies with subparagraph (C).

(2) OTHER RIGHTS.—

(A) PRESERVATION OF CONSUMER PROTECTIONS.—Nothing in this title affects the content or timing of any disclosure or other record required to be provided or made

available to any consumer under any statute, regulation, or other rule of law.

(B) VERIFICATION OR ACKNOWLEDGMENT.—If a law that was enacted prior to this Act expressly requires a record to be provided or made available by a specified method that requires verification or acknowledgment of receipt, the record may be provided or made available electronically only if the method used provides verification or acknowledgment of receipt (whichever is required).

(3) EFFECT OF FAILURE TO OBTAIN ELECTRONIC CONSENT OR CONFIRMATION OF CONSENT.—The legal effectiveness, validity, or enforceability of any contract executed by a consumer shall not be denied solely because of the failure to obtain electronic consent or confirmation of consent by that consumer in accordance with paragraph (1)(C)(ii).

(4) PROSPECTIVE EFFECT.—Withdrawal of consent by a consumer shall not affect the legal effectiveness, validity, or enforceability of electronic records provided or made available to that consumer in accordance with paragraph (1) prior to implementation of the consumer's withdrawal of consent. A consumer's withdrawal of consent shall be effective within a reasonable period of time after receipt of the withdrawal by the provider of the record. Failure to comply with paragraph (1)(D) may, at the election of the consumer, be treated as a withdrawal of consent for purposes of this paragraph.

(5) PRIOR CONSENT.—This subsection does not apply to any records that are provided or made available to a consumer who has consented prior to the effective date of this title to receive such records in electronic form as permitted by any statute, regulation, or other rule of law.

(6) ORAL COMMUNICATIONS.—An oral communication or a recording of an oral communication shall not qualify as an electronic record for purposes of this subsection except as otherwise provided under applicable law.

(d) RETENTION OF CONTRACTS AND RECORDS.—

(1) ACCURACY AND ACCESSIBILITY.—If a statute, regulation, or other rule of law requires that a contract or other record relating to a transaction in or affecting interstate or foreign commerce be retained, that requirement is met by retaining an electronic record of the information in the contract or other record that—

(A) accurately reflects the information set forth in the contract or other record; and

(B) remains accessible to all persons who are entitled to access by statute, regulation, or rule of law, for the period required by such statute, regulation, or rule of law, in a form that is capable of being accurately reproduced for later reference, whether by transmission, printing, or otherwise.

(2) EXCEPTION.—A requirement to retain a contract or other record in accordance with paragraph (1) does not apply to any information whose sole purpose is to enable the contract or other record to be sent, communicated, or received.

(3) ORIGINALS.—If a statute, regulation, or other rule of law requires a contract or other record relating to a transaction in or affecting interstate or foreign commerce to be provided,

available, or retained in its original form, or provides consequences if the contract or other record is not provided, available, or retained in its original form, that statute, regulation, or rule of law is satisfied by an electronic record that complies with paragraph (1).

(4) CHECKS.—If a statute, regulation, or other rule of law requires the retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with paragraph (1).

(e) ACCURACY AND ABILITY TO RETAIN CONTRACTS AND OTHER RECORDS.—Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that a contract or other record relating to a transaction in or affecting interstate or foreign commerce be in writing, the legal effect, validity, or enforceability of an electronic record of such contract or other record may be denied if such electronic record is not in a form that is capable of being retained and accurately reproduced for later reference by all parties or persons who are entitled to retain the contract or other record.

(f) PROXIMITY.—Nothing in this title affects the proximity required by any statute, regulation, or other rule of law with respect to any warning, notice, disclosure, or other record required to be posted, displayed, or publicly affixed.

(g) NOTARIZATION AND ACKNOWLEDGMENT.—If a statute, regulation, or other rule of law requires a signature or record relating to a transaction in or affecting interstate or foreign commerce to be notarized, acknowledged, verified, or made under oath, that requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable statute, regulation, or rule of law, is attached to or logically associated with the signature or record.

(h) ELECTRONIC AGENTS.—A contract or other record relating to a transaction in or affecting interstate or foreign commerce may not be denied legal effect, validity, or enforceability solely because its formation, creation, or delivery involved the action of one or more electronic agents so long as the action of any such electronic agent is legally attributable to the person to be bound.

(i) INSURANCE.—It is the specific intent of the Congress that this title and title II apply to the business of insurance. Applicability.

(j) INSURANCE AGENTS AND BROKERS.—An insurance agent or broker acting under the direction of a party that enters into a contract by means of an electronic record or electronic signature may not be held liable for any deficiency in the electronic procedures agreed to by the parties under that contract if—

(1) the agent or broker has not engaged in negligent, reckless, or intentional tortious conduct;

(2) the agent or broker was not involved in the development or establishment of such electronic procedures; and

(3) the agent or broker did not deviate from such procedures.

SEC. 102. EXEMPTION TO PREEMPTION. 15 USC 7002.

(a) IN GENERAL.—A State statute, regulation, or other rule of law may modify, limit, or supersede the provisions of section 101 with respect to State law only if such statute, regulation, or rule of law—

(1) constitutes an enactment or adoption of the Uniform Electronic Transactions Act as approved and recommended for enactment in all the States by the National Conference of Commissioners on Uniform State Laws in 1999, except that any exception to the scope of such Act enacted by a State under section 3(b)(4) of such Act shall be preempted to the extent such exception is inconsistent with this title or title II, or would not be permitted under paragraph (2)(A)(ii) of this subsection; or

(2)(A) specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability of contracts or other records, if—

(i) such alternative procedures or requirements are consistent with this title and title II; and

(ii) such alternative procedures or requirements do not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures; and

(B) if enacted or adopted after the date of the enactment of this Act, makes specific reference to this Act.

(b) EXCEPTIONS FOR ACTIONS BY STATES AS MARKET PARTICIPANTS.—Subsection (a)(2)(A)(ii) shall not apply to the statutes, regulations, or other rules of law governing procurement by any State, or any agency or instrumentality thereof.

(c) PREVENTION OF CIRCUMVENTION.—Subsection (a) does not permit a State to circumvent this title or title II through the imposition of nonelectronic delivery methods under section 8(b)(2) of the Uniform Electronic Transactions Act.

15 USC 7003.

SEC. 103. SPECIFIC EXCEPTIONS.

(a) EXCEPTED REQUIREMENTS.—The provisions of section 101 shall not apply to a contract or other record to the extent it is governed by—

(1) a statute, regulation, or other rule of law governing the creation and execution of wills, codicils, or testamentary trusts;

(2) a State statute, regulation, or other rule of law governing adoption, divorce, or other matters of family law; or

(3) the Uniform Commercial Code, as in effect in any State, other than sections 1–107 and 1–206 and Articles 2 and 2A.

(b) ADDITIONAL EXCEPTIONS.—The provisions of section 101 shall not apply to—

(1) court orders or notices, or official court documents (including briefs, pleadings, and other writings) required to be executed in connection with court proceedings;

(2) any notice of—

(A) the cancellation or termination of utility services (including water, heat, and power);

(B) default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual;

(C) the cancellation or termination of health insurance or benefits or life insurance benefits (excluding annuities); or

(D) recall of a product, or material failure of a product, that risks endangering health or safety; or

(3) any document required to accompany any transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.

(c) REVIEW OF EXCEPTIONS.—

(1) EVALUATION REQUIRED.—The Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall review the operation of the exceptions in subsections (a) and (b) to evaluate, over a period of 3 years, whether such exceptions continue to be necessary for the protection of consumers. Within 3 years after the date of enactment of this Act, the Assistant Secretary shall submit a report to the Congress on the results of such evaluation. Deadline. Reports.

(2) DETERMINATIONS.—If a Federal regulatory agency, with respect to matter within its jurisdiction, determines after notice and an opportunity for public comment, and publishes a finding, that one or more such exceptions are no longer necessary for the protection of consumers and eliminating such exceptions will not increase the material risk of harm to consumers, such agency may extend the application of section 101 to the exceptions identified in such finding.

SEC. 104. APPLICABILITY TO FEDERAL AND STATE GOVERNMENTS. 15 USC 7004.

(a) FILING AND ACCESS REQUIREMENTS.—Subject to subsection (c)(2), nothing in this title limits or supersedes any requirement by a Federal regulatory agency, self-regulatory organization, or State regulatory agency that records be filed with such agency or organization in accordance with specified standards or formats.

(b) PRESERVATION OF EXISTING RULEMAKING AUTHORITY.—

(1) USE OF AUTHORITY TO INTERPRET.—Subject to paragraph (2) and subsection (c), a Federal regulatory agency or State regulatory agency that is responsible for rulemaking under any other statute may interpret section 101 with respect to such statute through—

(A) the issuance of regulations pursuant to a statute; or

(B) to the extent such agency is authorized by statute to issue orders or guidance, the issuance of orders or guidance of general applicability that are publicly available and published (in the Federal Register in the case of an order or guidance issued by a Federal regulatory agency).

This paragraph does not grant any Federal regulatory agency or State regulatory agency authority to issue regulations, orders, or guidance pursuant to any statute that does not authorize such issuance.

(2) LIMITATIONS ON INTERPRETATION AUTHORITY.—Notwithstanding paragraph (1), a Federal regulatory agency shall not adopt any regulation, order, or guidance described in paragraph (1), and a State regulatory agency is preempted by section 101 from adopting any regulation, order, or guidance described in paragraph (1), unless—

(A) such regulation, order, or guidance is consistent with section 101;

(B) such regulation, order, or guidance does not add to the requirements of such section; and

(C) such agency finds, in connection with the issuance of such regulation, order, or guidance, that—

(i) there is a substantial justification for the regulation, order, or guidance;

(ii) the methods selected to carry out that purpose—

(I) are substantially equivalent to the requirements imposed on records that are not electronic records; and

(II) will not impose unreasonable costs on the acceptance and use of electronic records; and

(iii) the methods selected to carry out that purpose do not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures.

(3) PERFORMANCE STANDARDS.—

(A) ACCURACY, RECORD INTEGRITY, ACCESSIBILITY.—Notwithstanding paragraph (2)(C)(iii), a Federal regulatory agency or State regulatory agency may interpret section 101(d) to specify performance standards to assure accuracy, record integrity, and accessibility of records that are required to be retained. Such performance standards may be specified in a manner that imposes a requirement in violation of paragraph (2)(C)(iii) if the requirement (i) serves an important governmental objective; and (ii) is substantially related to the achievement of that objective. Nothing in this paragraph shall be construed to grant any Federal regulatory agency or State regulatory agency authority to require use of a particular type of software or hardware in order to comply with section 101(d).

(B) PAPER OR PRINTED FORM.—Notwithstanding subsection (c)(1), a Federal regulatory agency or State regulatory agency may interpret section 101(d) to require retention of a record in a tangible printed or paper form if—

(i) there is a compelling governmental interest relating to law enforcement or national security for imposing such requirement; and

(ii) imposing such requirement is essential to attaining such interest.

(4) EXCEPTIONS FOR ACTIONS BY GOVERNMENT AS MARKET PARTICIPANT.—Paragraph (2)(C)(iii) shall not apply to the statutes, regulations, or other rules of law governing procurement by the Federal or any State government, or any agency or instrumentality thereof.

(c) ADDITIONAL LIMITATIONS.—

(1) REIMPOSING PAPER PROHIBITED.—Nothing in subsection (b) (other than paragraph (3)(B) thereof) shall be construed to grant any Federal regulatory agency or State regulatory agency authority to impose or reimpose any requirement that a record be in a tangible printed or paper form.

(2) CONTINUING OBLIGATION UNDER GOVERNMENT PAPERWORK ELIMINATION ACT.—Nothing in subsection (a) or (b) relieves any Federal regulatory agency of its obligations under the Government Paperwork Elimination Act (title XVII of Public Law 105–277).

(d) AUTHORITY TO EXEMPT FROM CONSENT PROVISION.—

(1) IN GENERAL.—A Federal regulatory agency may, with respect to matter within its jurisdiction, by regulation or order issued after notice and an opportunity for public comment, exempt without condition a specified category or type of record from the requirements relating to consent in section 101(c) if such exemption is necessary to eliminate a substantial burden on electronic commerce and will not increase the material risk of harm to consumers.

(2) PROSPECTUSES.—Within 30 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue a regulation or order pursuant to paragraph (1) exempting from section 101(c) any records that are required to be provided in order to allow advertising, sales literature, or other information concerning a security issued by an investment company that is registered under the Investment Company Act of 1940, or concerning the issuer thereof, to be excluded from the definition of a prospectus under section 2(a)(10)(A) of the Securities Act of 1933. Deadline. Regulations.

(e) ELECTRONIC LETTERS OF AGENCY.—The Federal Communications Commission shall not hold any contract for telecommunications service or letter of agency for a preferred carrier change, that otherwise complies with the Commission's rules, to be legally ineffective, invalid, or unenforceable solely because an electronic record or electronic signature was used in its formation or authorization.

SEC. 105. STUDIES.

Deadlines. 15 USC 7005. Mail.

(a) DELIVERY.—Within 12 months after the date of the enactment of this Act, the Secretary of Commerce shall conduct an inquiry regarding the effectiveness of the delivery of electronic records to consumers using electronic mail as compared with delivery of written records via the United States Postal Service and private express mail services. The Secretary shall submit a report to the Congress regarding the results of such inquiry by the conclusion of such 12-month period. Reports.

(b) STUDY OF ELECTRONIC CONSENT.—Within 12 months after the date of the enactment of this Act, the Secretary of Commerce and the Federal Trade Commission shall submit a report to the Congress evaluating any benefits provided to consumers by the procedure required by section 101(c)(1)(C)(ii); any burdens imposed on electronic commerce by that provision; whether the benefits outweigh the burdens; whether the absence of the procedure required by section 101(c)(1)(C)(ii) would increase the incidence of fraud directed against consumers; and suggesting any revisions to the provision deemed appropriate by the Secretary and the Commission. In conducting this evaluation, the Secretary and the Commission shall solicit comment from the general public, consumer representatives, and electronic commerce businesses. Reports. Public information.

15 USC 7006.

SEC. 106. DEFINITIONS.

For purposes of this title:

(1) CONSUMER.—The term "consumer" means an individual who obtains, through a transaction, products or services which are used primarily for personal, family, or household purposes, and also means the legal representative of such an individual.

(2) ELECTRONIC.—The term "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) ELECTRONIC AGENT.—The term "electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part without review or action by an individual at the time of the action or response.

(4) ELECTRONIC RECORD.—The term "electronic record" means a contract or other record created, generated, sent, communicated, received, or stored by electronic means.

(5) ELECTRONIC SIGNATURE.—The term "electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

(6) FEDERAL REGULATORY AGENCY.—The term "Federal regulatory agency" means an agency, as that term is defined in section 552(f) of title 5, United States Code.

(7) INFORMATION.—The term "information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(8) PERSON.—The term "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(9) RECORD.—The term "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(10) REQUIREMENT.—The term "requirement" includes a prohibition.

(11) SELF-REGULATORY ORGANIZATION.—The term "self-regulatory organization" means an organization or entity that is not a Federal regulatory agency or a State, but that is under the supervision of a Federal regulatory agency and is authorized under Federal law to adopt and administer rules applicable to its members that are enforced by such organization or entity, by a Federal regulatory agency, or by another self-regulatory organization.

(12) STATE.—The term "State" includes the District of Columbia and the territories and possessions of the United States.

(13) TRANSACTION.—The term "transaction" means an action or set of actions relating to the conduct of business, consumer, or commercial affairs between two or more persons, including any of the following types of conduct—

(A) the sale, lease, exchange, licensing, or other disposition of (i) personal property, including goods and intangibles, (ii) services, and (iii) any combination thereof; and

(B) the sale, lease, exchange, or other disposition of any interest in real property, or any combination thereof.

SEC. 107. EFFECTIVE DATE. 15 USC 7001 note.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall be effective on October 1, 2000.

(b) EXCEPTIONS.—

(1) RECORD RETENTION.—

(A) IN GENERAL.—Subject to subparagraph (B), this title shall be effective on March 1, 2001, with respect to a requirement that a record be retained imposed by—

(i) a Federal statute, regulation, or other rule of law, or

(ii) a State statute, regulation, or other rule of law administered or promulgated by a State regulatory agency.

(B) DELAYED EFFECT FOR PENDING RULEMAKINGS.—If on March 1, 2001, a Federal regulatory agency or State regulatory agency has announced, proposed, or initiated, but not completed, a rulemaking proceeding to prescribe a regulation under section 104(b)(3) with respect to a requirement described in subparagraph (A), this title shall be effective on June 1, 2001, with respect to such requirement.

(2) CERTAIN GUARANTEED AND INSURED LOANS.—With regard to any transaction involving a loan guarantee or loan guarantee commitment (as those terms are defined in section 502 of the Federal Credit Reform Act of 1990), or involving a program listed in the Federal Credit Supplement, Budget of the United States, FY 2001, this title applies only to such transactions entered into, and to any loan or mortgage made, insured, or guaranteed by the United States Government thereunder, on and after one year after the date of enactment of this Act.

(3) STUDENT LOANS.—With respect to any records that are provided or made available to a consumer pursuant to an application for a loan, or a loan made, pursuant to title IV of the Higher Education Act of 1965, section 101(c) of this Act shall not apply until the earlier of—

(A) such time as the Secretary of Education publishes revised promissory notes under section 432(m) of the Higher Education Act of 1965; or

(B) one year after the date of enactment of this Act.

TITLE II—TRANSFERABLE RECORDS

SEC. 201. TRANSFERABLE RECORDS. 15 USC 7021.

(a) DEFINITIONS.—For purposes of this section:

(1) TRANSFERABLE RECORD.—The term "transferable record" means an electronic record that—

(A) would be a note under Article 3 of the Uniform Commercial Code if the electronic record were in writing;

(B) the issuer of the electronic record expressly has agreed is a transferable record; and

(C) relates to a loan secured by real property.

A transferable record may be executed using an electronic signature.

(2) OTHER DEFINITIONS.—The terms "electronic record", "electronic signature", and "person" have the same meanings provided in section 106 of this Act.

(b) CONTROL.—A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) CONDITIONS.—A system satisfies subsection (b), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that—

(1) a single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as—

(A) the person to which the transferable record was issued; or

(B) if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) STATUS AS HOLDER.—Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 1–201(20) of the Uniform Commercial Code, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under section 3–302(a), 9–308, or revised section 9–330 of the Uniform Commercial Code are satisfied, the rights and defenses of a holder in due course or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

(e) OBLIGOR RIGHTS.—Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

(f) PROOF OF CONTROL.—If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

(g) UCC REFERENCES.—For purposes of this subsection, all references to the Uniform Commercial Code are to the Uniform Commercial Code as in effect in the jurisdiction the law of which governs the transferable record.

SEC. 202. EFFECTIVE DATE. 15 USC 7021 note.

This title shall be effective 90 days after the date of enactment of this Act.

TITLE III—PROMOTION OF INTERNATIONAL ELECTRONIC COMMERCE

SEC. 301. PRINCIPLES GOVERNING THE USE OF ELECTRONIC SIGNATURES IN INTERNATIONAL TRANSACTIONS. 15 USC 7031.

(a) PROMOTION OF ELECTRONIC SIGNATURES.—

(1) REQUIRED ACTIONS.—The Secretary of Commerce shall promote the acceptance and use, on an international basis, of electronic signatures in accordance with the principles specified in paragraph (2) and in a manner consistent with section 101 of this Act. The Secretary of Commerce shall take all actions necessary in a manner consistent with such principles to eliminate or reduce, to the maximum extent possible, the impediments to commerce in electronic signatures, for the purpose of facilitating the development of interstate and foreign commerce.

(2) PRINCIPLES.—The principles specified in this paragraph are the following:

(A) Remove paper-based obstacles to electronic transactions by adopting relevant principles from the Model Law on Electronic Commerce adopted in 1996 by the United Nations Commission on International Trade Law.

(B) Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced.

(C) Permit parties to a transaction to have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(D) Take a nondiscriminatory approach to electronic signatures and authentication methods from other jurisdictions.

(b) CONSULTATION.—In conducting the activities required by this section, the Secretary shall consult with users and providers of electronic signature products and services and other interested persons.

(c) DEFINITIONS.—As used in this section, the terms "electronic record" and "electronic signature" have the same meanings provided in section 106 of this Act.

TITLE IV—COMMISSION ON ONLINE CHILD PROTECTION

SEC. 401. AUTHORITY TO ACCEPT GIFTS.

Section 1405 of the Child Online Protection Act (47 U.S.C. 231 note) is amended by inserting after subsection (g) the following new subsection:

"(h) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real (including the use of office space) and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts or grants not used at the termination of the Commission shall be returned to the donor or grantee.".

Approved June 30, 2000.

LEGISLATIVE HISTORY—S. 761 (H.R. 1714):

HOUSE REPORTS: No. 106–341, accompanying H.R. 1714, Pt. 1 (Comm. on Commerce) and Pt. 2 (Comm. on the Judiciary).

SENATE REPORTS: Nos. 106–131 (Comm. on Commerce, Science, and Transportation) and 106–661 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 145 (1999): Nov. 19, considered and passed Senate.

Vol. 146 (2000): Feb. 16, considered and passed House, amended, in lieu of H.R. 1714.

June 14, House agreed to conference report.

June 15, 16, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):

June 30, Presidential remarks and statement.

○

§22000. Definitions.

• Note • History

(a) For purposes of this chapter, and unless the context expressly indicates otherwise:

(1) "Digitally-signed communication" is a message that has been processed by a computer in such a manner that ties the message to the individual that signed the message.

(2) "Message" means a digital representation of information intended to serve as a written communication with a public entity.

(3) "Person" means a human being or any organization capable of signing a document, either legally or as a matter of fact.

(4) "Public entity" means the public entity as defined by California Government Code Section 811.2.

(5) "Signer" means the person who signs a digitally signed communication with the use of an acceptable technology to uniquely link the message with the person sending it.

(6) "Technology" means the computer hardware and/or software-based method or process used to create digital signatures.

NOTE

Authority cited: Section 16.5, Government Code. Reference: Section 16.5, Government Code.

HISTORY

1. New chapter 10 (sections 22000-22005) and section filed 6-12-98; operative 6-12-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 24).

§22001. Digital Signatures Must Be Created by an Acceptable Technology.

• Note • History

(a) For a digital signature to be valid for use by a public entity, it must be created by a technology that is acceptable for use by the State of California.

NOTE

Authority cited: Section 16.5, Government Code. Reference: Section 16.5, Government Code.

HISTORY

1. New section filed 6-12-98; operative 6-12-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 24).

§22002. Criteria for State to Determine if a Digital Signature Technology Is Acceptable for Use by Public Entities.

• Note • History

(a) An acceptable technology must be capable of creating signatures that conform to requirements set forth in California Government Code Section 16.5, specifically,

(1) It is unique to the person using it;

(2) It is capable of verification;

(3) It is under the sole control of the person using it;

(4) It is linked to data in such a manner that if the data are changed, the digital signature is invalidated;

(5) It conforms to Title 2, Division 7, Chapter 10 of the California Code of Regulations.

NOTE

Authority cited: Section 16.5, Government Code. Reference: Section 16.5, Government Code.

HISTORY

1. New section filed 6-12-98; operative 6-12-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 24).

§22003. List of Acceptable Technologies.

• Note • History

(a) The technology known as Public Key Cryptography is an acceptable technology for use by public entities in California, provided that the digital signature is created consistent with the provisions in Section 22003(a)1-5.

(1) Definitions -- For purposes of Section 22003(a), and unless the context expressly indicates otherwise:

(A) "Acceptable Certification Authorities" means a certification authority that meets the requirements of either Section 22003(a)6(C) or Section 22003(a)6(D).

(B) "Approved List of Certification Authorities" means the list of Certification Authorities approved by the Secretary of State to issue certification for digital signature transactions involving public entities in California.

(C) "Asymmetric cryptosystem" means a computer algorithm or series of algorithms which utilize two different keys with the following characteristics:

(i) one key signs a given message;

(ii) one key verifies a given message; and,

(iii) the keys have the property that, knowing one key, it is computationally infeasible to discover the other key.

(D) "Certificate" means a computer-based record which:

(i) identifies the certification authority issuing it;

(ii) names or identifies its subscriber;

(iii) contains the subscriber's public key; and

(iv) is digitally signed by the certification authority issuing or amending it, and

(v) conforms to widely-used industry standards, including, but not limited to ISO x.509 and PGP certificate standards.

(E) "Certification Authority" means a person or entity that issues a certificate, or in the case of certain certification processes, certifies amendments to an existing certificate.

(F) "Key pair" means a private key and its corresponding public key in an asymmetric cryptosystem. The keys have the property that the public key can verify a digital signature that the private key creates.

(G) "Practice statement" means documentation of the practices, procedures and controls employed by a Certification Authority.

(H) "Private key" means the key of a key pair used to create a digital signature.

(I) "Proof of Identification" means the document or documents presented to a Certification Authority to establish the identity of a subscriber.

(J) "Public key" means the key of a key pair used to verify a digital signature.

(K) "Subscriber" means a person who:

(i) is the subject listed in a certificate;

(ii) accepts the certificate; and

(iii) holds a private key which corresponds to a public key listed in that certificate.

(2) California Government Code §16.5 requires that a digital signature be `unique to the person using it'. A public key-based digital signature may be considered unique to the person using it, if:

(A) The private key used to create the signature on the document is known only to the signer, and

(B) the digital signature is created when a person runs a message through a one-way function, creating a message digest, then encrypting the resulting message digest using an asymmetrical cryptosystem and the signer's private key, and,

(C) although not all digitally signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature, and

(D) it is computationally infeasible to derive the private key from knowledge of the public key.

(3) California Government Code §16.5 requires that a digital signature be `capable of verification'. A public-key based digital signature is capable of verification if:

(A) the acceptor of the digitally signed document can verify the document was digitally signed by using the signer's public key to decrypt the message; and

(B) if a certificate is a required component of a transaction with a public agency, the issuing Certification Authority, either through a certification practice statement or through the content of the certificate itself, must identify which, if any, form(s) of identification it required of the signer prior to issuing the certificate.

(4) California Government Code §16.5 requires that the digital signature remain `under the sole control of the person using it'. Whether a signature is accompanied by a certificate or not, the person who holds the key pair, or the subscriber identified in the certificate, assumes a duty to exercise reasonable care to retain control of the private key and prevent its disclosure to any person not authorized to create the subscriber's digital signature pursuant to Evidence Code Section 669.

(5) The digital signature must be linked to the message of the document in such a way that if the data are changed, the digital signature is invalidated.

(6) Acceptable Certification Authorities

(A) The California Secretary of State shall maintain an "Approved List of Certificate Authorities" authorized to issue certificates for digitally signed communication with public entities in California.

(B) Public entities shall only accept certificates from Certification Authorities that appear on the "Approved List of Certification Authorities" authorized to issue certificates by the California Secretary of State.

(C) The Secretary of State shall place Certification Authorities on the "Approved List of Certification Authorities" after the Certification Authority provides the Secretary of State with a copy of an unqualified performance audit performed in accordance with standards set in the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards No. 70 (S.A.S. 70) "Reports on the Processing of Service Transactions by Service Organizations" (1992) to ensure that the Certification Authorities' practices and policies are consistent with the Certifications Authority's stated control objectives. The AICPA Statement on Auditing Standards No. 70 (1992) is hereby incorporated by reference.

(i) Certification Authorities that have been in operation for one year or less shall undergo a SAS 70 Type One audit -- A Report of Policies and Procedures Placed in Operation, receiving an unqualified opinion.

(ii) Certification Authorities that have been in operation for longer than one year shall undergo a SAS 70 Type Two audit -- A Report Of Policies And Procedures Placed In Operation And Test Of Operating Effectiveness, receiving an unqualified opinion.

(iii) To remain on the "Approved List of Certification Authorities" a Certification Authority must provide proof of compliance with Section 20003(a)(6)(C)(ii) to the Secretary of State every two years after initially being placed on the list.

(D) In lieu of completing the auditing requirement in Section 22003(a)(6)(C), Certification Authorities may be placed on the "Approved List of Certification Authorities" upon providing the Secretary of State with proof of accreditation that has been conferred by a national or international accreditation body that the Secretary of State has determined utilizes accreditation criteria that are consistent with the requirements of Section 22003(a)(1)-(5).

(i) Certification Authorities shall be removed from the "Approved List of Acceptable Certifications Authorities" unless they provide current proof of accreditation to the Secretary of State at least once per year.

(ii) If the Secretary of State is informed that a Certification Authority has had its accreditation revoked, the Certification Authority shall be removed from the "Approved List of Certification Authorities" immediately.

(b) The technology known as "Signature Dynamics" is an acceptable technology for use by public entities in California, provided that the signature is created consistent with the provisions in Section 22003(b)(1)-(5).

(1) Definitions -- For the purposes of Section 22003(b), and unless the context expressly indicates otherwise:

(A) "Handwriting Measurements" means the metrics of the shapes, speeds and/or other distinguishing features of a signature as the person writes it by hand with a pen or stylus on a flat surface.

(B) "Signature Digest" is the resulting bit-string produced when a signature is tied to a document using Signature Dynamics.

(C) "Expert" means a person with demonstrable skill and knowledge based on training and experience who would qualify as an expert pursuant to California Evidence Code §720.

(D) "Signature Dynamics" means measuring the way a person writes his or her signature by hand on a flat surface and binding the measurements to a message through the use of cryptographic techniques.

(2) California Government Code §16.5 requires that a digital signatures be `unique to the person using it.' A signature digest produced by Signature Dynamics technology may be considered unique to the person using it, if:

(A) the signature digest records the handwriting measurements of the person signing the document using signature dynamics technology, and

(B) the signature digest is cryptographically bound to the handwriting measurements, and

(C) after the signature digest has been bound to the handwriting measurements, it is computationally infeasible to separate the handwriting measurements and bind them to a different signature digest.

(3) California Government Code §16.5 requires that a digital signature be capable of verification. A signature digest produced by signature dynamics technology is capable of verification if:

(A) the acceptor of the digitally signed message obtains the handwriting measurements for purposes of comparison, and

(B) if signature verification is a required component of a transaction with a public entity, the handwriting measurements can allow an expert handwriting and document examiner to assess the authenticity of a signature.

(4) California Government Code §16.5 requires that a digital signature remain `under the sole control of the person using it'. A signature digest is under the sole control of the person using it if:

(A) the signature digest captures the handwriting measurements and cryptographically binds them to the message directed by the signer and to no other message, and

(B) the signature digest makes it computationally infeasible for the handwriting measurements to be bound to any other message.

(5) The signature digest produced by signature dynamics technology must be linked to the message in such a way that if the data in the message are changed, the signature digest is invalidated.

NOTE

Authority cited: Section 16.5, Government Code. Reference: Section 16.5, Government Code.

HISTORY

1. New section filed 6-12-98; operative 6-12-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 24).

§22004. Provisions for Adding New Technologies to the List of Acceptable Technologies.

• Note • History

(a) Any individual or company can, by providing a written request that includes a full explanation of a proposed technology which meets the requirements of Section 22002, petition the California Secretary of State to review the technology. If the Secretary of State determines that the technology is acceptable for use with the state, the Secretary of State shall adopt regulation(s), pursuant to the Administrative Procedure Act, which would add the proposed technology to the list of acceptable technologies in Section 22003.

(b) The Secretary of State has 180 calendar days from the date the request is received to review the petition and inform the petitioner, in writing, whether the technology is accepted or rejected. If the petition is rejected, the Secretary of State shall provide the petitioner with the reasons for the rejection.

(1) If the proposed technology is rejected, the petitioner can appeal the decision through the Administrative Procedures Act (Government Code Section 11500 et seq).

NOTE

Authority cited: Section 16.5, Government Code. Reference: Section 16.5, Government Code.

HISTORY

1. New section filed 6-12-98; operative 6-12-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 24).

§22005. Criteria for Public Entities To Use in Accepting Digital Signatures.

• Note • History

(a) Prior to accepting a digital signature, public entities shall ensure that the level of security used to identify the signer of a document is sufficient for the transaction being conducted.

(b) Prior to accepting a digital signature, public entities shall ensure that the level of security used to transmit the signature is sufficient for the transaction being conducted.

(c) If a certificate is a required component of a digital signature transaction, public entities shall ensure that the certificate format used by the signer is sufficient for the security and interoperability needs of the public entity.

NOTE

Authority cited: Section 16.5, Government Code. Reference: Section 16.5, Government Code.

HISTORY

1. New section filed 6-12-98; operative 6-12-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 24).

Chapter 11. Safe at Home Confidential Address Program

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

Board Agenda Item VIII.F.6
January 21, 2005

NOTIFICATION AND AGREEMENT TO CONDITIONS FOR THE PRIVILEGE TO PRACTICE PUBLIC ACCOUNTING IN CALIFORNIA PURSUANT TO CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 5096 AND TITLE 16, DIVISION 1, ARTICLE 4 OF THE CALIFORNIA CODE OF REGULATIONS:

Name: _____ Prior Name(s): _____

Firm Name: _____

Address Of Principal Place Of Business (mailing address): _____

Telephone Number (business hours): _____ Fax Number (business hours): _____ Business E-mail: _____

Date Of Birth: ___/___/_____ Social Security Number: _____

QUALIFICATION REQUIREMENTS:

I state as follows:

☐ I am an individual.

2. ☐ My principal place of business is not in California and I do not have an office in California other than through a firm that is registered in California and of which I am an employee; **OR**

☐ I have a pending application for licensure in California under Sections 5087 and 5088.

3. ☐ I qualify for a practice privilege based on my current, valid license to practice public accountancy in the following state:

State: _____ License Number: _____ Date Issued: _____ License Expiration Date: _____

4. ☐ a. The state of licensure identified in Item 3 is deemed substantially equivalent by the California Board of Accountancy (CBA) (see Appendix 1 for a list of substantially equivalent states); **OR**

☐ b. My individual qualifications have been determined by NASBA to be substantially equivalent (NASBA file no. _____); **OR**

☐ c. I have continually practiced public accountancy as a certified public accountant under a valid license issued by any state for 4 of the last 10 years.

5. ☐ I am submitting this notice to the CBA at or before the time I begin the practice of public accountancy in California; **OR**

☐ (This option is only available through December 31, 2007.) I am submitting this notice within five business days after I began the practice of public accountancy in California on __/__/__. My reason(s) for not providing notice on or before that date:

_____

_____

6. ☐ I have met the continuing education requirements and any exam requirements for the state of licensure identified in Item 3 above.

I consent and agree to the following:

7. ☐ To comply with the laws of the State of California, including the California Accountancy Act (Business and Professions Code Section 5000 et seq., accessible at *http://www.dca.ca.gov/cba/acnt_act.htm*) and the regulations thereunder (accessible at *http://www.dca.ca.gov/cba/regs.htm*).

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

9. ☐ To respond fully and completely to all inquiries by the CBA relating to my California practice privilege, including after the expiration of this privilege.

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

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

12. ☐ To concurrently submit the fee of $100.00.

REQUIREMENTS FOR SIGNING ATTEST REPORTS:

I wish to be able to sign an attest report under this practice privilege and, if so, I have at least 500 hours of experience in attest services. ☐ Yes ☐ No

DISQUALIFYING CONDITIONS:

Please check any of the items below that apply. *For any items checked "yes" in (A) – (G), you must provide additional information as requested in Attachment X and* ***you are not authorized to practice in California unless and until you receive notice from the CBA that the privilege has been granted.***

Y ☐ N ☐ A. I have been convicted of a crime other than a minor traffic violation.

Y ☐ N ☐ B. I have had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned except for the following occurrences:

(1) an action by a state board of accountancy in which the only sanction was a requirement that the individual complete specified continuing education courses.
(2) the revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew.

Y	N		
☐	☐	C.	I am currently the subject of an investigation, inquiry or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving my professional conduct.
☐	☐	D.	I have an unresolved administrative suspension or an unpaid fine related to a prior California practice privilege.
☐	☐	E.	I did not respond to a request for information from the CBA related to a prior practice privilege.
☐	☐	F.	I have been notified by the CBA that prior Board approval is required before practice under a new practice privilege may commence.
☐	☐	G.	I have had a judgment or arbitration award against me involving my professional conduct in the amount of $30,000 or greater.

REQUIRED ADDITIONAL INFORMATION:

Do you currently hold a California Practice Privilege? ☐ Yes ☐ No

When does it expire? _____

Have you ever held a California CPA/PA license? ☐ Yes ☐ No License number: _____

In addition to the state of licensure identified in Item 3, I am also authorized to practice in the following:

State: _____ License Number: _____ Other Authority: _____

State: _____ License Number: _____ Other Authority: _____

An answer of "no" to any of the following statements does not disqualify you from a California practice privilege.

I am an associated person of a firm registered with the PCAOB. ☐ Yes ☐ No

My firm has undergone peer review within the last three years. ☐ Yes ☐ No

The state of licensure identified in Item 3 requires CE in fraud detection. ☐ Yes ☐ No
If yes, I have fulfilled this requirement. ☐ Yes ☐ No

I, _____, understand that any misrepresentation or omission in connection with this notification disqualifies me from the California practice privilege and is cause for termination. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. I certify under penalty of perjury under the laws of the State of California that the foregoing information is true and correct.

Signature: _____ Date: _____

Your privilege to practice commences with the submission of your completed notification and your fee. Your privilege expires at the end of one year.

State of California Department of Consumer Affairs

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

ATTACHMENT X

1. If you checked any of items A – G under disqualifying conditions, please provide explanatory details:

_____

_____

_____

2. If you checked Item G under disqualifying conditions, please also provide:

Date of Judgment/ Arbitration Award: _____ Jurisdiction/Court: _____ Docket No: _____

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

State of California
Department of Consumer Affairs

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Memorandum

Practice Privilege TF Agenda Item V.A.
January 20, 2005

Board Agenda Item VIII.F.6.a.
January 21, 2005

To : Practice Privilege Task Force Members
Board Members

Date : January 10, 2005

Telephone : (916) 561-1740
Facsimile : (916) 263-3676
E-mail : pfranz@cba.ca.gov

From : Patti L. Franz
Licensing Manager

Subject : Licensee Comments and Responses to Evaluation of Notification Form

At its meeting of November 18, 2004, the Practice Privilege Task Force requested that staff distribute the draft notification form to a sampling of licensees for evaluation prior to its finalization. The form was e-mailed to 36 California licensees, including the members of the Administrative Committee and the Qualifications Committee. Staff received responses from 21 licensees.

The licensees were requested to provide comments to the following questions:

- Did you encounter any content that was confusing while completing the form?
- Were there sections of the form you believe should be better explained?
- Did you identify additional information you needed in order to complete the form?
- What other suggestions do you have to improve the form?

Provided below are the most substantive comments received. An updated draft notification form with the suggested edits in underline/strikeout format is attached for review (Attachment 1). Staff have incorporated all of the suggested edits for review and consideration by the Task Force (Attachment 2).

Suggested Edits to the Notification Form

Contact Information

- Identify that we are requesting the mailing address for the Principal Place of Business.

Qualification Requirements

- Question 3, Page 1 – Add a field for License Expiration Date.
- Move items 5, 6, 7, 8, 11, and 12 under a separate heading such as "I consent and agree to the following conditions."

- Add check boxes to all of the Qualification Requirements and consent statements.

Additional Information

- The request for information regarding fraud continuing education should be broken into two separate statements. For example:

The state of licensure identified in Item 3 requires CE in fraud detection. ☐ Yes ☐ No
If yes, I have fulfilled this requirement. ☐ Yes ☐ No

Disqualifying Conditions

Suggested Edits to the Notification Form

- Change the labeling of the disqualifying conditions from "1" through "6" to "A" through "F" to alleviate confusion for individuals completing Attachment X.
- Require individuals to answer either "Yes" or "No" to each disqualifying condition.
- Add **California** Board **of Accountancy** to item E to alleviate confusion.

Suggested Edits to the *Certification of Attest Experience* form

The *Certification of Attest Experience* form was also distributed for review.

Provided below are the most substantive comments received regarding the *Certification of Attest Experience* form. An updated *Certification of Attest Experience* form with the suggested edits is attached for review (Attachment 3). Staff have incorporated all of the suggested edits for review and consideration by the Task Force (Attachment 4).

- Add the question, "Have you ever signed an attest report on behalf of your firm?"

It was suggested the following two statements be included in the *Certification of Attest* form. If included in the form, both statements will require narrative from the practice privilege holder. The statements, which are not included in the draft form, are provided to the Task Force for consideration and discussion.

1. Briefly discuss the scope of practice you expect to perform while practicing in California.
2. Describe the experience you have had with respect to the Attestation standards, and the Accounting standards, related to the customary types of transactions you expect to encounter while performing the accounting practice you expect to perform in California.

Suggested Items to be Included in the Instructions to the Notification Form

Also provided below are items suggested to be incorporated into the instructions for the Notification form, which are being presented for consideration and discussion. The draft instructions for the Notification form will be completed for adoption at the March Task Force meeting.

- Provide assurance that the individuals' contact information will not be made available for public requests.
- Define "personal and subject matter" from the second item under the heading "I consent and agree to the following conditions."

Both forms will be revised to reflect the actions of the Task Force and the Board at this meeting.

Attachments

State of California Department of Consumer Affairs

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

DRAFT

Attachment 1

NOTIFICATION AND AGREEMENT TO CONDITIONS FOR THE PRIVILEGE TO PRACTICE PUBLIC ACCOUNTING IN CALIFORNIA PURSUANT TO CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 5096 AND TITLE 16, DIVISION 1, ARTICLE 4 OF THE CALIFORNIA CODE OF REGULATIONS:

Name: _____ Prior Name(s): _____

Firm Name: _____

Address Of Principal Place Of Business (mailing address): _____

Telephone Number (business hours): _____ Fax Number (business hours): _____ Business E-mail: _____

Date Of Birth: ____/____/_____ Social Security Number: _____

QUALIFICATION REQUIREMENTS:

I state as follows:

1. I am an individual.

2. ☐ My principal place of business is not in California and I do not have an office in California other than through a firm that is registered in California and of which I am an employee; **OR**

   ☐ I have a pending application for licensure in California under Sections 5087 and 5088.

3. I qualify for a practice privilege based on my current, valid license to practice public accountancy in the following state:

State: _____ License Number: _____ Date Issued: _____ License Expiration Date: _____

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

   ☐ b. My individual qualifications have been determined by NASBA to be substantially equivalent (NASBA file no. _____); **OR**

   ☐ c. I have continually practiced public accountancy as a certified public accountant under a valid license issued by any state for 4 of the last 10 years.

~~5.~~ ~~I agree to comply with the laws of the State of California, including the California Accountancy Act (Business and Professions Code Section 5000 et seq., accessible at *http://www.dca.ca.gov/cba/acnt_act.htm*) and the regulations thereunder (accessible at *http://www.dca.ca.gov/cba/regs.htm*).~~

~~6.~~ ~~I consent to the personal and subject matter jurisdiction of the California Board of Accountancy (CBA) including, but not limited to, the following:~~

~~a. To suspend or revoke, without prior notice or hearing and in the sole discretion of the CBA or its representatives, the privilege to practice public accounting;~~

~~b. To impose discipline for any violation of the California Accountancy Act or regulations thereunder and recover costs for investigation and prosecution; and~~

~~c. To provide information relating to a practice privilege and/or refer any additional and further discipline to the board of accountancy of any other state and/or the SEC, PCAOB or other relevant regulatory authorities.~~

~~7.~~ ~~I agree to respond fully and completely to all inquiries by the CBA relating to my California practice privilege, including after the expiration of this privilege.~~

~~8.~~ ~~I consent to the authority of the CBA to verify the accuracy and truthfulness of the information provided in this notification. I consent to the release of all information relevant to the CBA's inquiries now or in the future by:~~

~~a. Contacting other state agencies;~~

~~b. Contacting the SEC, PCAOB or any other federal agency before which I am authorized to practice; and~~

~~c. Contacting NASBA.~~

9. I am submitting this notice to the CBA:

☐ At or before the time I begin the practice of public accountancy in California; **OR**

☐ If submitted before December 31, 2007, within five business days after I began the practice of public accountancy in California on __/__/__. My reason(s) for not providing notice on or before that date:

_____

_____

10. ☐ I have met the continuing education requirements and any exam requirements for the state of licensure identified in item 3 above.

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

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

I consent and agree to the following:

☐ ~~I agree~~To comply with the laws of the State of California, including the California Accountancy Act (Business and Professions Code Section 5000 et seq., accessible at *http://www.dca.ca.gov/cba/acnt_act.htm*) and the regulations thereunder (accessible at *http://www.dca.ca.gov/cba/regs.htm*).

☐ ~~I consent~~To the personal and subject matter jurisdiction of the California Board of Accountancy (CBA) including, but not limited to, the following:

d. To suspend or revoke, without prior notice or hearing and in the sole discretion of the CBA or its representatives, the privilege to practice public accounting;
e. To impose discipline for any violation of the California Accountancy Act or regulations thereunder and recover costs for investigation and prosecution; and
f. To provide information relating to a practice privilege and/or refer any additional and further discipline to the board of accountancy of any other state and/or the SEC, PCAOB or other relevant regulatory authorities.

☐ ~~I agree~~ To respond fully and completely to all inquiries by the CBA relating to my California practice privilege, including after the expiration of this privilege.

☐ ~~I consent~~ To the authority of the CBA to verify the accuracy and truthfulness of the information provided in this notification. I consent to the release of all information relevant to the CBA's inquiries now or in the future by:

d. Contacting other state agencies;
e. Contacting the SEC, PCAOB or any other federal agency before which I am authorized to practice; and
f. Contacting NASBA.

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

☐ ~~I am~~ To concurrently submit~~ting~~ the fee of $100.00.

REQUIREMENTS FOR SIGNING ATTEST REPORTS:

I wish to be able to sign an attest report under this practice privilege and I have at least 500 hours of experience in attest services. ☐ Yes ☐ No

REQUIRED ADDITIONAL INFORMATION:

Do you currently hold a California Practice Privilege? ☐ Yes ☐ No

When does it expire? _____

Have you ever held a California CPA/PA license? ☐ Yes ☐ No License number: _____

In addition to the state of licensure identified in item 3, I am also authorized to practice in the following:

State: _____ License Number: _____ Other Authority: _____

State: _____ License Number: _____ Other Authority: _____

I am an associated person of a firm registered with the PCAOB. ☐ Yes ☐ No

My firm has undergone peer review within the last three years. ☐ Yes ☐ No

~~The state of licensure identified in item 3 requires continuing education in fraud detection and I have fulfilled this requirement. ☐ Yes ☐ No~~

The state of licensure identified in Item 3 requires CE in fraud detection. ☐ Yes ☐ No
If yes, I have fulfilled this requirement. ☐ Yes ☐ No

DISQUALIFYING CONDITIONS:

Please check any of the items below that apply. *For any items checked "yes" in ~~(1)-(6)~~(A) – (F), you must provide additional information as requested in Attachment X and* ***you are not authorized to practice in California unless and until you receive notice from the CBA that the privilege has been granted.***

Y ☐ N ☐ ~~1.~~ A. I have been convicted of a crime other than a minor traffic violation.

Y ☐ N ☐ ~~2.~~ B. I have had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned except for the following occurrences:

(A) an action by a state board of accountancy in which the only sanction was a fine of less than $_____ or a requirement that the individual complete specified continuing education courses.

(B) the revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew.

Y ☐ N ☐ ~~3.~~ C. I am currently the subject of an investigation, inquiry or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving my professional conduct.

Y ☐ N ☐ ~~4.~~ D. I have an unresolved administrative suspension or an unpaid fine related to a prior California practice privilege.

Y ☐ N ☐ ~~5.~~ E. I did not respond to a request for information from the California Board of Accountancy related to a prior practice privilege.

Y ☐ N ☐ ~~6.~~ F. I have had a judgment or arbitration award against me involving my professional conduct in the amount of $30,000 or greater.

I, _____, understand that any misrepresentation or omission in connection with this notification disqualifies me from the California practice privilege and is cause for termination. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. I certify under penalty of perjury under the laws of the State of California that the foregoing information is true and correct.

Signature: _____ Date: _____

Your privilege to practice commences with the submission of your completed notification and your fee. Your privilege expires one year from the date of this notice.

State of California Department of Consumer Affairs

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

ATTACHMENT X

1. If you checked any of items ~~1 – 6~~ A – F under disqualifying conditions, please provide explanatory details:

_____

_____

_____

2. If you checked item ~~6~~ F under disqualifying conditions, please also provide:

Date of Judgment/
Arbitration Award: _____ Jurisdiction/Court: _____ Docket No: _____

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

State of California Department of Consumer Affairs

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DRAFT

Attachment 2

NOTIFICATION AND AGREEMENT TO CONDITIONS FOR THE PRIVILEGE TO PRACTICE PUBLIC ACCOUNTING IN CALIFORNIA PURSUANT TO CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 5096 AND TITLE 16, DIVISION 1, ARTICLE 4 OF THE CALIFORNIA CODE OF REGULATIONS:

Name: _____ Prior Name(s): _____

Firm Name: _____

Address Of Principal Place Of Business (mailing address): _____

Telephone Number (business hours): _____ Fax Number (business hours): _____ Business E-mail: _____

Date Of Birth: ____/____/_____ Social Security Number: _____

QUALIFICATION REQUIREMENTS:

I state as follows:

1. I am an individual.

2. ☐ My principal place of business is not in California and I do not have an office in California other than through a firm that is registered in California and of which I am an employee; **OR**

   ☐ I have a pending application for licensure in California under Sections 5087 and 5088.

3. I qualify for a practice privilege based on my current, valid license to practice public accountancy in the following state:

   State: _____ License Number: _____ Date Issued: _____ License Expiration Date: _____

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

   ☐ b. My individual qualifications have been determined by NASBA to be substantially equivalent (NASBA file no. _____); **OR**

   ☐ c. I have continually practiced public accountancy as a certified public accountant under a valid license issued by any state for 4 of the last 10 years.

5. I am submitting this notice to the CBA:

   ☐ At or before the time I begin the practice of public accountancy in California; **OR**

   ☐ If submitted before December 31, 2007, within five business days after I began the practice of public accountancy in California on __/__/__. My reason(s) for not providing notice on or before that date:

   _____

6. ☐ I have met the continuing education requirements and any exam requirements for the state of licensure identified in item 3 above.

I consent and agree to the following:

☐ To comply with the laws of the State of California, including the California Accountancy Act (Business and Professions Code Section 5000 et seq., accessible at *http://www.dca.ca.gov/cba/acnt_act.htm*) and the regulations thereunder (accessible at *http://www.dca.ca.gov/cba/regs.htm*).

☐ To the personal and subject matter jurisdiction of the California Board of Accountancy (CBA) including, but not limited to, the following:

a. To suspend or revoke, without prior notice or hearing and in the sole discretion of the CBA or its representatives, the privilege to practice public accounting;
b. To impose discipline for any violation of the California Accountancy Act or regulations thereunder and recover costs for investigation and prosecution; and
c. To provide information relating to a practice privilege and/or refer any additional and further discipline to the board of accountancy of any other state and/or the SEC, PCAOB or other relevant regulatory authorities.

☐ To respond fully and completely to all inquiries by the CBA relating to my California practice privilege, including after the expiration of this privilege.

☐ To the authority of the CBA to verify the accuracy and truthfulness of the information provided in this notification. I consent to the release of all information relevant to the CBA's inquiries now or in the future by:

a. Contacting other state agencies;
b. Contacting the SEC, PCAOB or any other federal agency before which I am authorized to practice; and
c. Contacting NASBA.

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

☐ To concurrently submit the fee of $100.00.

REQUIREMENTS FOR SIGNING ATTEST REPORTS:

I wish to be able to sign an attest report under this practice privilege and I have at least 500 hours of experience in attest services. ☐ Yes ☐ No

REQUIRED ADDITIONAL INFORMATION:

Do you currently hold a California Practice Privilege? ☐ Yes ☐ No

When does it expire? _____

Have you ever held a California CPA/PA license? ☐ Yes ☐ No License number: _____

In addition to the state of licensure identified in Item 3, I am also authorized to practice in the following:

State: _____ License Number: _____ Other Authority: _____

State: _____ License Number: _____ Other Authority: _____

I am an associated person of a firm registered with the PCAOB. ☐ Yes ☐ No

My firm has undergone peer review within the last three years. ☐ Yes ☐ No

The state of licensure identified in Item 3 requires CE in fraud detection. ☐ Yes ☐ No
If yes, I have fulfilled this requirement. ☐ Yes ☐ No

DISQUALIFYING CONDITIONS:

Please check any of the items below that apply. *For any items checked "yes" in (A) – (F), you must provide additional information as requested in Attachment X and* ***you are not authorized to practice in California unless and until you receive notice from the CBA that the privilege has been granted.***

Y ☐ N ☐ A. I have been convicted of a crime other than a minor traffic violation.

Y ☐ N ☐ B. I have had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned except for the following occurrences:

(A) an action by a state board of accountancy in which the only sanction was a fine of less than $_____ or a requirement that the individual complete specified continuing education courses.

(B) the revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew.

Y ☐ N ☐ C. I am currently the subject of an investigation, inquiry or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving my professional conduct.

Y ☐ N ☐ D. I have an unresolved administrative suspension or an unpaid fine related to a prior California practice privilege.

Y ☐ N ☐ E. I did not respond to a request for information from the California Board of Accountancy related to a prior practice privilege.

Y ☐ N ☐ F. I have had a judgment or arbitration award against me involving my professional conduct in the amount of $30,000 or greater.

I, _____, understand that any misrepresentation or omission in connection with this notification disqualifies me from the California practice privilege and is cause for termination. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. I certify under penalty of perjury under the laws of the State of California that the foregoing information is true and correct.

Signature: _____ Date: _____

Your privilege to practice commences with the submission of your completed notification and your fee. Your privilege expires one year from the date of this notice.

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

ATTACHMENT X

1. If you checked any of items A – F under disqualifying conditions, please provide explanatory details:

_____

_____

_____

2. If you checked item F under disqualifying conditions, please also provide:

Date of Judgment/
Arbitration Award: _____ Jurisdiction/Court: _____ Docket No: _____

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

State of California Department of Consumer Affairs

CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3676
WEB ADDRESS: http://www.dca.ca.gov/cba

Attachment 3

CERTIFICATION OF ATTEST EXPERIENCE

PRINT OR TYPE

FULL NAME OF LICENSEE: (No Initials) (First) (Middle) (Last)	SOCIAL SECURITY #

FIRM NAME (IF ANY)	CURRENT TITLE
BUSINESS ADDRESS (Including City, State, and Zip Code)	
BUSINESS TELEPHONE: Area Code ( )	Approximate Number of Years Practicing Public Accountancy

Pursuant to Section 5096.5, you may not sign an attest report unless you have 500 hours of experience in attest services (see Section 5095 of the California Business and Professions Code). For these purposes, experience is that which has enabled you to demonstrate an understanding of the requirements of planning and conducting an audit with minimum supervision which results in opinions on full disclosure financial statements.

		Yes	No
I.	Have you participated in the planning of an audit, including the selection of the procedures to be performed?		
II.	Have you had experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions included in financial statements?		
III.	Have you had experience in the preparation of working papers in connection with the various elements of I and II above?		
IV.	Have you had experience in the preparation of written explanations and comments on the work performed and its findings?		
V.	Have you participated in the preparation of and reporting on full disclosure financial statements?		
VI.	Have you ever signed an attest report on behalf of your firm?		

I hereby certify, under penalty of perjury under the laws of the State of California, that I have met California's experience requirement, Section 5095, prior to the submission of the notification of practice privilege, and that all statements and representations on this form are true and correct.

Licensee Signature	Date Signed

State of California Department of Consumer Affairs

CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3676
WEB ADDRESS: http://www.dca.ca.gov/cba

Attachment 4

CERTIFICATION OF ATTEST EXPERIENCE

PRINT OR TYPE

FULL NAME OF LICENSEE: (No Initials) (First) (Middle) (Last)	SOCIAL SECURITY #

FIRM NAME (IF ANY)	CURRENT TITLE
BUSINESS ADDRESS (Including City, State, and Zip Code)	
BUSINESS TELEPHONE: Area Code ( )	Approximate Number of Years Practicing Public Accountancy

Pursuant to Section 5096.5, you may not sign an attest report unless you have 500 hours of experience in attest services (see Section 5095 of the California Business and Professions Code). For these purposes, experience is that which has enabled you to demonstrate an understanding of the requirements of planning and conducting an audit with minimum supervision which results in opinions on full disclosure financial statements.

		Yes	No
I.	Have you participated in the planning of an audit, including the selection of the procedures to be performed?		
II.	Have you had experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions included in financial statements?		
III.	Have you had experience in the preparation of working papers in connection with the various elements of I and II above?		
IV.	Have you had experience in the preparation of written explanations and comments on the work performed and its findings?		
V.	Have you participated in the preparation of and reporting on full disclosure financial statements?		
VI.	Have you ever signed an attest report on behalf of your firm?		

I hereby certify, under penalty of perjury under the laws of the State of California, that I have met California's experience requirement, Section 5095, prior to the submission of the notification of practice privilege, and that all statements and representations on this form are true and correct.

Licensee Signature	Date Signed

State of California
Department of Consumer Affairs

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Memorandum

Practice Privilege TF Agenda Item IV.A.
January 20, 2005

Board Agenda Item VIII.F.5.a.
January 21, 2005

To : Practice Privilege Task Force Members
Board Members

Date : January 11, 2005

Telephone : (916) 561-3788
Facsimile : (916) 263-3674
E-mail : awong@cba.ca.gov

From : Aronna Wong
Legislation/Regulations Coordinator

Subject : Findings from OAL Regarding the Form in the Regulations

Attached as background information for your consideration of whether to place the form in the regulations is an e-mail from OAL (Attachment 1) discussing this subject and the subject of the on-line interactive form. Also attached are the federal law and state regulations referenced in the OAL e-mail (Attachments 2 and 3).

Attachments

"Reference Attorney" <RA@oal.ca.gov> on 12/03/2004 11:32:06 AM

To: <agranick@cba.ca.gov>
cc:

Subject: RE: Putting a form in regulations - on-line interactive form

The Administrative Procedure Act was written before anybody even contemplated an on-line form. In fact, it was written before fax machines became common. Consequently, it doesn't provide particularly explicit guidance on these questions, either for rulemaking entities or for the OAL. You obviously can't include a computer and monitor in your rulemaking file. Your general approach, therefore, should be to look at satisfying the intent of the APA–providing the public with a clear opportunity to review and understand the rules they are being asked to follow.

Regarding submission of the on-line form in the rulemaking file, you will probably have to use some type of descriptive reference to the on-line form. In terms of public interest, the question of what information you are seeking is obviously more significant than the question of how the form is laid out. If you cannot print a facsimile of the interactive form for inclusion in the rulemaking file, you can make a strong argument that you have provided adequate notice and opportunity to comment if you have a provision in the regulations saying that there will be an interactive form on-line and that the information collected will be the same as the information required on the paper form. Since the question of what information is collected is more important than the layout of the form, if you take this approach you are complying about as much as you can. This also makes it clear that you cannot modify the required information for the on-line form without also amending the paper form, and vice versa, which would require another rulemaking.

There are a couple of laws governing electronic signatures. One is the federal "E-sign" law (see attached). Another is the CA Secretary of State regulation on digital signatures (2 CCR 22000, *et seq.*) I don't know which, if either, of these laws would apply in your case, but you will obviously need to have some way to ensure the validity of electronic signatures. You could simply adopt the appropriate requirements from an external law into your regulations (i.e., reprint them as part of your own proposal), or you could incorporate the governing law by reference.

Bear in mind that if your proposal adopts another jurisdiction's laws or another state agency's regulations through incorporation by reference, it fixes your regulation to the specific version in effect at the time of your rulemaking. In other words, if you incorporate the federal E-sign law as currently in effect and the federal government subsequently changes that law, you will either need to require continued compliance with the pre-amendment version incorporated by reference in your rule, or amend your rule to refer to the new version.

I hope this is helpful. Please do not hesitate to contact us if you have further questions.

OAL Reference Attorney

<<E-Sign.pdf>>

From: agranick@cba.ca.gov [mailto:agranick@cba.ca.gov]
Sent: Friday, December 03, 2004 9:47 AM
To: Reference Attorney
Subject: Putting a form in regulations - on-line interactive form

Barbara Eckard called and recommended that I forward this question to you. If you want to call me rather than e-mail me, I can be reached at (916) 561-1788.
I will be leaving at noon today, but will be in all next week.
I look foward to hearing from you.

Aronna Granick
California Board of Accountancy

---------- Forwarded by Aronna Granick/BoardOfAccountancy on 12/03/2004 09:42 AM ----------

To: "Barbara Eckard" <beckard@oal.ca.gov>
cc: Mary Crocker@BoardOfAccountancy

Subject: Putting a form in regulations

Barbara,

As you recall we recently talked about the option our (Board of Accountancy) would have for putting a form in regulations. I appreciate all of the help you have provided and hope you had a great Thanksgiving holiday. I was going over my notes from our last Board meeting, and I realize 2 questions still remain:

1) In addition to a paper form that people will be able to fill out and mail or fax to us, we also plan to have an on-line, interactive form for practitioners to fill out. The on-line form will be set up so the contents will go directly into a database. We would be seeking the same information on both the paper and on-line versions of the form. However I've been told that in order for the on-line form to make sense to the people completing it, it might to necessary for the questions and structure in the on-line form to vary slightly from the questions and structure that would be used in the paper form. So, while all of the information we would be requesting would be the same, there could be variations in the language we use to request this information. How should we approach putting the form in regs under these circumstances? Would it be sufficient to put the paper version of the form in the regs and indicate there will also be an on-line equivalent?

We have the paper version ready and it could be included with our regs notice, however the on-line version will need additional time to develop. If we need to have it ready prior to beginning the rulemaking

process, it could make it difficult for us to have regs in place in time for the January 1, 2006, start date of the program.

2) The paper version of the form has a place for a signature. The on-line form would have an electronic signature. How would we address this in regulations. I was considering having a provision in the regulation which included the language we intend to use for the electronic signature. Would that approach be acceptable? Is there another, simpler way you could recommend?

I look forward to hearing from you and receiving help with these questions. I recall you indicated that you would check with people in your office who were knowledgeable about computer and IT questions to see if you could get more information. I'd be happy to talk directly with that person or forward this e-mail to them. I look forward to hearing from you regarding how to proceed. If there is someone else I need to talk to, could you provide the phone number? or they can call me at 561-1788.

Thanks for your help.

-- Aronna Granick

- E-Sign.pdf

Attachment 2

PUBLIC LAW 106–229—JUNE 30, 2000

ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

Public Law 106–229
106th Congress

An Act

June 30, 2000
[S. 761]

To facilitate the use of electronic records and signatures in interstate or foreign commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Electronic Signatures in Global and National Commerce Act.
Contracts.
15 USC 7001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Electronic Signatures in Global and National Commerce Act".

TITLE I—ELECTRONIC RECORDS AND SIGNATURES IN COMMERCE

15 USC 7001.

SEC. 101. GENERAL RULE OF VALIDITY.

(a) IN GENERAL.—Notwithstanding any statute, regulation, or other rule of law (other than this title and title II), with respect to any transaction in or affecting interstate or foreign commerce—

(1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and

(2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.

(b) PRESERVATION OF RIGHTS AND OBLIGATIONS.—This title does not—

(1) limit, alter, or otherwise affect any requirement imposed by a statute, regulation, or rule of law relating to the rights and obligations of persons under such statute, regulation, or rule of law other than a requirement that contracts or other records be written, signed, or in nonelectronic form; or

(2) require any person to agree to use or accept electronic records or electronic signatures, other than a governmental agency with respect to a record other than a contract to which it is a party.

(c) CONSUMER DISCLOSURES.—

(1) CONSENT TO ELECTRONIC RECORDS.—Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that information relating to a transaction or transactions in or affecting interstate or foreign commerce be provided or made available to a consumer in writing, the use of an electronic record to provide or make available (whichever

is required) such information satisfies the requirement that such information be in writing if—

(A) the consumer has affirmatively consented to such use and has not withdrawn such consent;

(B) the consumer, prior to consenting, is provided with a clear and conspicuous statement—

(i) informing the consumer of (I) any right or option of the consumer to have the record provided or made available on paper or in nonelectronic form, and (II) the right of the consumer to withdraw the consent to have the record provided or made available in an electronic form and of any conditions, consequences (which may include termination of the parties' relationship), or fees in the event of such withdrawal;

(ii) informing the consumer of whether the consent applies (I) only to the particular transaction which gave rise to the obligation to provide the record, or (II) to identified categories of records that may be provided or made available during the course of the parties' relationship;

(iii) describing the procedures the consumer must use to withdraw consent as provided in clause (i) and to update information needed to contact the consumer electronically; and

(iv) informing the consumer (I) how, after the consent, the consumer may, upon request, obtain a paper copy of an electronic record, and (II) whether any fee will be charged for such copy;

(C) the consumer—

(i) prior to consenting, is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and

(ii) consents electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access information in the electronic form that will be used to provide the information that is the subject of the consent; and

(D) after the consent of a consumer in accordance with subparagraph (A), if a change in the hardware or software requirements needed to access or retain electronic records creates a material risk that the consumer will not be able to access or retain a subsequent electronic record that was the subject of the consent, the person providing the electronic record—

(i) provides the consumer with a statement of (I) the revised hardware and software requirements for access to and retention of the electronic records, and (II) the right to withdraw consent without the imposition of any fees for such withdrawal and without the imposition of any condition or consequence that was not disclosed under subparagraph (B)(i); and

(ii) again complies with subparagraph (C).

(2) OTHER RIGHTS.—

(A) PRESERVATION OF CONSUMER PROTECTIONS.—Nothing in this title affects the content or timing of any disclosure or other record required to be provided or made

available to any consumer under any statute, regulation, or other rule of law.

(B) VERIFICATION OR ACKNOWLEDGMENT.—If a law that was enacted prior to this Act expressly requires a record to be provided or made available by a specified method that requires verification or acknowledgment of receipt, the record may be provided or made available electronically only if the method used provides verification or acknowledgment of receipt (whichever is required).

(3) EFFECT OF FAILURE TO OBTAIN ELECTRONIC CONSENT OR CONFIRMATION OF CONSENT.—The legal effectiveness, validity, or enforceability of any contract executed by a consumer shall not be denied solely because of the failure to obtain electronic consent or confirmation of consent by that consumer in accordance with paragraph (1)(C)(ii).

(4) PROSPECTIVE EFFECT.—Withdrawal of consent by a consumer shall not affect the legal effectiveness, validity, or enforceability of electronic records provided or made available to that consumer in accordance with paragraph (1) prior to implementation of the consumer's withdrawal of consent. A consumer's withdrawal of consent shall be effective within a reasonable period of time after receipt of the withdrawal by the provider of the record. Failure to comply with paragraph (1)(D) may, at the election of the consumer, be treated as a withdrawal of consent for purposes of this paragraph.

(5) PRIOR CONSENT.—This subsection does not apply to any records that are provided or made available to a consumer who has consented prior to the effective date of this title to receive such records in electronic form as permitted by any statute, regulation, or other rule of law.

(6) ORAL COMMUNICATIONS.—An oral communication or a recording of an oral communication shall not qualify as an electronic record for purposes of this subsection except as otherwise provided under applicable law.

(d) RETENTION OF CONTRACTS AND RECORDS.—

(1) ACCURACY AND ACCESSIBILITY.—If a statute, regulation, or other rule of law requires that a contract or other record relating to a transaction in or affecting interstate or foreign commerce be retained, that requirement is met by retaining an electronic record of the information in the contract or other record that—

(A) accurately reflects the information set forth in the contract or other record; and

(B) remains accessible to all persons who are entitled to access by statute, regulation, or rule of law, for the period required by such statute, regulation, or rule of law, in a form that is capable of being accurately reproduced for later reference, whether by transmission, printing, or otherwise.

(2) EXCEPTION.—A requirement to retain a contract or other record in accordance with paragraph (1) does not apply to any information whose sole purpose is to enable the contract or other record to be sent, communicated, or received.

(3) ORIGINALS.—If a statute, regulation, or other rule of law requires a contract or other record relating to a transaction in or affecting interstate or foreign commerce to be provided,

available, or retained in its original form, or provides consequences if the contract or other record is not provided, available, or retained in its original form, that statute, regulation, or rule of law is satisfied by an electronic record that complies with paragraph (1).

(4) CHECKS.—If a statute, regulation, or other rule of law requires the retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with paragraph (1).

(e) ACCURACY AND ABILITY TO RETAIN CONTRACTS AND OTHER RECORDS.—Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that a contract or other record relating to a transaction in or affecting interstate or foreign commerce be in writing, the legal effect, validity, or enforceability of an electronic record of such contract or other record may be denied if such electronic record is not in a form that is capable of being retained and accurately reproduced for later reference by all parties or persons who are entitled to retain the contract or other record.

(f) PROXIMITY.—Nothing in this title affects the proximity required by any statute, regulation, or other rule of law with respect to any warning, notice, disclosure, or other record required to be posted, displayed, or publicly affixed.

(g) NOTARIZATION AND ACKNOWLEDGMENT.—If a statute, regulation, or other rule of law requires a signature or record relating to a transaction in or affecting interstate or foreign commerce to be notarized, acknowledged, verified, or made under oath, that requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable statute, regulation, or rule of law, is attached to or logically associated with the signature or record.

(h) ELECTRONIC AGENTS.—A contract or other record relating to a transaction in or affecting interstate or foreign commerce may not be denied legal effect, validity, or enforceability solely because its formation, creation, or delivery involved the action of one or more electronic agents so long as the action of any such electronic agent is legally attributable to the person to be bound.

(i) INSURANCE.—It is the specific intent of the Congress that this title and title II apply to the business of insurance. Applicability.

(j) INSURANCE AGENTS AND BROKERS.—An insurance agent or broker acting under the direction of a party that enters into a contract by means of an electronic record or electronic signature may not be held liable for any deficiency in the electronic procedures agreed to by the parties under that contract if—

(1) the agent or broker has not engaged in negligent, reckless, or intentional tortious conduct;

(2) the agent or broker was not involved in the development or establishment of such electronic procedures; and

(3) the agent or broker did not deviate from such procedures.

SEC. 102. EXEMPTION TO PREEMPTION. 15 USC 7002.

(a) IN GENERAL.—A State statute, regulation, or other rule of law may modify, limit, or supersede the provisions of section 101 with respect to State law only if such statute, regulation, or rule of law—

(1) constitutes an enactment or adoption of the Uniform Electronic Transactions Act as approved and recommended for enactment in all the States by the National Conference of Commissioners on Uniform State Laws in 1999, except that any exception to the scope of such Act enacted by a State under section 3(b)(4) of such Act shall be preempted to the extent such exception is inconsistent with this title or title II, or would not be permitted under paragraph (2)(A)(ii) of this subsection; or

(2)(A) specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability of contracts or other records, if—

(i) such alternative procedures or requirements are consistent with this title and title II; and

(ii) such alternative procedures or requirements do not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures; and

(B) if enacted or adopted after the date of the enactment of this Act, makes specific reference to this Act.

(b) EXCEPTIONS FOR ACTIONS BY STATES AS MARKET PARTICIPANTS.—Subsection (a)(2)(A)(ii) shall not apply to the statutes, regulations, or other rules of law governing procurement by any State, or any agency or instrumentality thereof.

(c) PREVENTION OF CIRCUMVENTION.—Subsection (a) does not permit a State to circumvent this title or title II through the imposition of nonelectronic delivery methods under section 8(b)(2) of the Uniform Electronic Transactions Act.

15 USC 7003.

SEC. 103. SPECIFIC EXCEPTIONS.

(a) EXCEPTED REQUIREMENTS.—The provisions of section 101 shall not apply to a contract or other record to the extent it is governed by—

(1) a statute, regulation, or other rule of law governing the creation and execution of wills, codicils, or testamentary trusts;

(2) a State statute, regulation, or other rule of law governing adoption, divorce, or other matters of family law; or

(3) the Uniform Commercial Code, as in effect in any State, other than sections 1–107 and 1–206 and Articles 2 and 2A.

(b) ADDITIONAL EXCEPTIONS.—The provisions of section 101 shall not apply to—

(1) court orders or notices, or official court documents (including briefs, pleadings, and other writings) required to be executed in connection with court proceedings;

(2) any notice of—

(A) the cancellation or termination of utility services (including water, heat, and power);

(B) default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual;

(C) the cancellation or termination of health insurance or benefits or life insurance benefits (excluding annuities); or

(D) recall of a product, or material failure of a product, that risks endangering health or safety; or

(3) any document required to accompany any transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.

(c) REVIEW OF EXCEPTIONS.—

(1) EVALUATION REQUIRED.—The Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall review the operation of the exceptions in subsections (a) and (b) to evaluate, over a period of 3 years, whether such exceptions continue to be necessary for the protection of consumers. Within 3 years after the date of enactment of this Act, the Assistant Secretary shall submit a report to the Congress on the results of such evaluation. Deadline. Reports.

(2) DETERMINATIONS.—If a Federal regulatory agency, with respect to matter within its jurisdiction, determines after notice and an opportunity for public comment, and publishes a finding, that one or more such exceptions are no longer necessary for the protection of consumers and eliminating such exceptions will not increase the material risk of harm to consumers, such agency may extend the application of section 101 to the exceptions identified in such finding.

SEC. 104. APPLICABILITY TO FEDERAL AND STATE GOVERNMENTS. 15 USC 7004.

(a) FILING AND ACCESS REQUIREMENTS.—Subject to subsection (c)(2), nothing in this title limits or supersedes any requirement by a Federal regulatory agency, self-regulatory organization, or State regulatory agency that records be filed with such agency or organization in accordance with specified standards or formats.

(b) PRESERVATION OF EXISTING RULEMAKING AUTHORITY.—

(1) USE OF AUTHORITY TO INTERPRET.—Subject to paragraph (2) and subsection (c), a Federal regulatory agency or State regulatory agency that is responsible for rulemaking under any other statute may interpret section 101 with respect to such statute through—

(A) the issuance of regulations pursuant to a statute; or

(B) to the extent such agency is authorized by statute to issue orders or guidance, the issuance of orders or guidance of general applicability that are publicly available and published (in the Federal Register in the case of an order or guidance issued by a Federal regulatory agency).

This paragraph does not grant any Federal regulatory agency or State regulatory agency authority to issue regulations, orders, or guidance pursuant to any statute that does not authorize such issuance.

(2) LIMITATIONS ON INTERPRETATION AUTHORITY.—Notwithstanding paragraph (1), a Federal regulatory agency shall not adopt any regulation, order, or guidance described in paragraph (1), and a State regulatory agency is preempted by section 101 from adopting any regulation, order, or guidance described in paragraph (1), unless—

(A) such regulation, order, or guidance is consistent with section 101;

(B) such regulation, order, or guidance does not add to the requirements of such section; and

(C) such agency finds, in connection with the issuance of such regulation, order, or guidance, that—

(i) there is a substantial justification for the regulation, order, or guidance;

(ii) the methods selected to carry out that purpose—

(I) are substantially equivalent to the requirements imposed on records that are not electronic records; and

(II) will not impose unreasonable costs on the acceptance and use of electronic records; and

(iii) the methods selected to carry out that purpose do not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures.

(3) PERFORMANCE STANDARDS.—

(A) ACCURACY, RECORD INTEGRITY, ACCESSIBILITY.—Notwithstanding paragraph (2)(C)(iii), a Federal regulatory agency or State regulatory agency may interpret section 101(d) to specify performance standards to assure accuracy, record integrity, and accessibility of records that are required to be retained. Such performance standards may be specified in a manner that imposes a requirement in violation of paragraph (2)(C)(iii) if the requirement (i) serves an important governmental objective; and (ii) is substantially related to the achievement of that objective. Nothing in this paragraph shall be construed to grant any Federal regulatory agency or State regulatory agency authority to require use of a particular type of software or hardware in order to comply with section 101(d).

(B) PAPER OR PRINTED FORM.—Notwithstanding subsection (c)(1), a Federal regulatory agency or State regulatory agency may interpret section 101(d) to require retention of a record in a tangible printed or paper form if—

(i) there is a compelling governmental interest relating to law enforcement or national security for imposing such requirement; and

(ii) imposing such requirement is essential to attaining such interest.

(4) EXCEPTIONS FOR ACTIONS BY GOVERNMENT AS MARKET PARTICIPANT.—Paragraph (2)(C)(iii) shall not apply to the statutes, regulations, or other rules of law governing procurement by the Federal or any State government, or any agency or instrumentality thereof.

(c) ADDITIONAL LIMITATIONS.—

(1) REIMPOSING PAPER PROHIBITED.—Nothing in subsection (b) (other than paragraph (3)(B) thereof) shall be construed to grant any Federal regulatory agency or State regulatory agency authority to impose or reimpose any requirement that a record be in a tangible printed or paper form.

(2) CONTINUING OBLIGATION UNDER GOVERNMENT PAPERWORK ELIMINATION ACT.—Nothing in subsection (a) or (b) relieves any Federal regulatory agency of its obligations under the Government Paperwork Elimination Act (title XVII of Public Law 105–277).

(d) AUTHORITY TO EXEMPT FROM CONSENT PROVISION.—

(1) IN GENERAL.—A Federal regulatory agency may, with respect to matter within its jurisdiction, by regulation or order issued after notice and an opportunity for public comment, exempt without condition a specified category or type of record from the requirements relating to consent in section 101(c) if such exemption is necessary to eliminate a substantial burden on electronic commerce and will not increase the material risk of harm to consumers.

(2) PROSPECTUSES.—Within 30 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue a regulation or order pursuant to paragraph (1) exempting from section 101(c) any records that are required to be provided in order to allow advertising, sales literature, or other information concerning a security issued by an investment company that is registered under the Investment Company Act of 1940, or concerning the issuer thereof, to be excluded from the definition of a prospectus under section 2(a)(10)(A) of the Securities Act of 1933. Deadline. Regulations.

(e) ELECTRONIC LETTERS OF AGENCY.—The Federal Communications Commission shall not hold any contract for telecommunications service or letter of agency for a preferred carrier change, that otherwise complies with the Commission's rules, to be legally ineffective, invalid, or unenforceable solely because an electronic record or electronic signature was used in its formation or authorization.

SEC. 105. STUDIES.

Deadlines. 15 USC 7005. Mail.

(a) DELIVERY.—Within 12 months after the date of the enactment of this Act, the Secretary of Commerce shall conduct an inquiry regarding the effectiveness of the delivery of electronic records to consumers using electronic mail as compared with delivery of written records via the United States Postal Service and private express mail services. The Secretary shall submit a report to the Congress regarding the results of such inquiry by the conclusion of such 12-month period. Reports.

(b) STUDY OF ELECTRONIC CONSENT.—Within 12 months after the date of the enactment of this Act, the Secretary of Commerce and the Federal Trade Commission shall submit a report to the Congress evaluating any benefits provided to consumers by the procedure required by section 101(c)(1)(C)(ii); any burdens imposed on electronic commerce by that provision; whether the benefits outweigh the burdens; whether the absence of the procedure required by section 101(c)(1)(C)(ii) would increase the incidence of fraud directed against consumers; and suggesting any revisions to the provision deemed appropriate by the Secretary and the Commission. In conducting this evaluation, the Secretary and the Commission shall solicit comment from the general public, consumer representatives, and electronic commerce businesses. Reports. Public information.

15 USC 7006.

SEC. 106. DEFINITIONS.

For purposes of this title:

(1) CONSUMER.—The term "consumer" means an individual who obtains, through a transaction, products or services which are used primarily for personal, family, or household purposes, and also means the legal representative of such an individual.

(2) ELECTRONIC.—The term "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) ELECTRONIC AGENT.—The term "electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part without review or action by an individual at the time of the action or response.

(4) ELECTRONIC RECORD.—The term "electronic record" means a contract or other record created, generated, sent, communicated, received, or stored by electronic means.

(5) ELECTRONIC SIGNATURE.—The term "electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

(6) FEDERAL REGULATORY AGENCY.—The term "Federal regulatory agency" means an agency, as that term is defined in section 552(f) of title 5, United States Code.

(7) INFORMATION.—The term "information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(8) PERSON.—The term "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(9) RECORD.—The term "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(10) REQUIREMENT.—The term "requirement" includes a prohibition.

(11) SELF-REGULATORY ORGANIZATION.—The term "self-regulatory organization" means an organization or entity that is not a Federal regulatory agency or a State, but that is under the supervision of a Federal regulatory agency and is authorized under Federal law to adopt and administer rules applicable to its members that are enforced by such organization or entity, by a Federal regulatory agency, or by another self-regulatory organization.

(12) STATE.—The term "State" includes the District of Columbia and the territories and possessions of the United States.

(13) TRANSACTION.—The term "transaction" means an action or set of actions relating to the conduct of business, consumer, or commercial affairs between two or more persons, including any of the following types of conduct—

(A) the sale, lease, exchange, licensing, or other disposition of (i) personal property, including goods and intangibles, (ii) services, and (iii) any combination thereof; and

(B) the sale, lease, exchange, or other disposition of any interest in real property, or any combination thereof.

SEC. 107. EFFECTIVE DATE. 15 USC 7001 note.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall be effective on October 1, 2000.

(b) EXCEPTIONS.—

(1) RECORD RETENTION.—

(A) IN GENERAL.—Subject to subparagraph (B), this title shall be effective on March 1, 2001, with respect to a requirement that a record be retained imposed by—

(i) a Federal statute, regulation, or other rule of law, or

(ii) a State statute, regulation, or other rule of law administered or promulgated by a State regulatory agency.

(B) DELAYED EFFECT FOR PENDING RULEMAKINGS.—If on March 1, 2001, a Federal regulatory agency or State regulatory agency has announced, proposed, or initiated, but not completed, a rulemaking proceeding to prescribe a regulation under section 104(b)(3) with respect to a requirement described in subparagraph (A), this title shall be effective on June 1, 2001, with respect to such requirement.

(2) CERTAIN GUARANTEED AND INSURED LOANS.—With regard to any transaction involving a loan guarantee or loan guarantee commitment (as those terms are defined in section 502 of the Federal Credit Reform Act of 1990), or involving a program listed in the Federal Credit Supplement, Budget of the United States, FY 2001, this title applies only to such transactions entered into, and to any loan or mortgage made, insured, or guaranteed by the United States Government thereunder, on and after one year after the date of enactment of this Act.

(3) STUDENT LOANS.—With respect to any records that are provided or made available to a consumer pursuant to an application for a loan, or a loan made, pursuant to title IV of the Higher Education Act of 1965, section 101(c) of this Act shall not apply until the earlier of—

(A) such time as the Secretary of Education publishes revised promissory notes under section 432(m) of the Higher Education Act of 1965; or

(B) one year after the date of enactment of this Act.

TITLE II—TRANSFERABLE RECORDS

SEC. 201. TRANSFERABLE RECORDS. 15 USC 7021.

(a) DEFINITIONS.—For purposes of this section:

(1) TRANSFERABLE RECORD.—The term "transferable record" means an electronic record that—

(A) would be a note under Article 3 of the Uniform Commercial Code if the electronic record were in writing;

(B) the issuer of the electronic record expressly has agreed is a transferable record; and

(C) relates to a loan secured by real property.

A transferable record may be executed using an electronic signature.

(2) OTHER DEFINITIONS.—The terms "electronic record", "electronic signature", and "person" have the same meanings provided in section 106 of this Act.

(b) CONTROL.—A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) CONDITIONS.—A system satisfies subsection (b), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that—

(1) a single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as—

(A) the person to which the transferable record was issued; or

(B) if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) STATUS AS HOLDER.—Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 1–201(20) of the Uniform Commercial Code, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under section 3–302(a), 9–308, or revised section 9–330 of the Uniform Commercial Code are satisfied, the rights and defenses of a holder in due course or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

(e) OBLIGOR RIGHTS.—Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

(f) PROOF OF CONTROL.—If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

(g) UCC REFERENCES.—For purposes of this subsection, all references to the Uniform Commercial Code are to the Uniform Commercial Code as in effect in the jurisdiction the law of which governs the transferable record.

SEC. 202. EFFECTIVE DATE. 15 USC 7021 note.

This title shall be effective 90 days after the date of enactment of this Act.

TITLE III—PROMOTION OF INTERNATIONAL ELECTRONIC COMMERCE

SEC. 301. PRINCIPLES GOVERNING THE USE OF ELECTRONIC SIGNATURES IN INTERNATIONAL TRANSACTIONS. 15 USC 7031.

(a) PROMOTION OF ELECTRONIC SIGNATURES.—

(1) REQUIRED ACTIONS.—The Secretary of Commerce shall promote the acceptance and use, on an international basis, of electronic signatures in accordance with the principles specified in paragraph (2) and in a manner consistent with section 101 of this Act. The Secretary of Commerce shall take all actions necessary in a manner consistent with such principles to eliminate or reduce, to the maximum extent possible, the impediments to commerce in electronic signatures, for the purpose of facilitating the development of interstate and foreign commerce.

(2) PRINCIPLES.—The principles specified in this paragraph are the following:

(A) Remove paper-based obstacles to electronic transactions by adopting relevant principles from the Model Law on Electronic Commerce adopted in 1996 by the United Nations Commission on International Trade Law.

(B) Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced.

(C) Permit parties to a transaction to have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(D) Take a nondiscriminatory approach to electronic signatures and authentication methods from other jurisdictions.

(b) CONSULTATION.—In conducting the activities required by this section, the Secretary shall consult with users and providers of electronic signature products and services and other interested persons.

(c) DEFINITIONS.—As used in this section, the terms "electronic record" and "electronic signature" have the same meanings provided in section 106 of this Act.

TITLE IV—COMMISSION ON ONLINE CHILD PROTECTION

SEC. 401. AUTHORITY TO ACCEPT GIFTS.

Section 1405 of the Child Online Protection Act (47 U.S.C. 231 note) is amended by inserting after subsection (g) the following new subsection:

"(h) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real (including the use of office space) and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts or grants not used at the termination of the Commission shall be returned to the donor or grantee.".

Approved June 30, 2000.

LEGISLATIVE HISTORY—S. 761 (H.R. 1714):

HOUSE REPORTS: No. 106–341, accompanying H.R. 1714, Pt. 1 (Comm. on Commerce) and Pt. 2 (Comm. on the Judiciary).

SENATE REPORTS: Nos. 106–131 (Comm. on Commerce, Science, and Transportation) and 106–661 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 145 (1999): Nov. 19, considered and passed Senate.

Vol. 146 (2000): Feb. 16, considered and passed House, amended, in lieu of H.R. 1714.

June 14, House agreed to conference report.

June 15, 16, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):

June 30, Presidential remarks and statement.

○

§22000. Definitions.

• Note • History

(a) For purposes of this chapter, and unless the context expressly indicates otherwise:

(1) "Digitally-signed communication" is a message that has been processed by a computer in such a manner that ties the message to the individual that signed the message.

(2) "Message" means a digital representation of information intended to serve as a written communication with a public entity.

(3) "Person" means a human being or any organization capable of signing a document, either legally or as a matter of fact.

(4) "Public entity" means the public entity as defined by California Government Code Section 811.2.

(5) "Signer" means the person who signs a digitally signed communication with the use of an acceptable technology to uniquely link the message with the person sending it.

(6) "Technology" means the computer hardware and/or software-based method or process used to create digital signatures.

NOTE

Authority cited: Section 16.5, Government Code. Reference: Section 16.5, Government Code.

HISTORY

1. New chapter 10 (sections 22000-22005) and section filed 6-12-98; operative 6-12-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 24).

§22001. Digital Signatures Must Be Created by an Acceptable Technology.

• Note • History

(a) For a digital signature to be valid for use by a public entity, it must be created by a technology that is acceptable for use by the State of California.

NOTE

Authority cited: Section 16.5, Government Code. Reference: Section 16.5, Government Code.

HISTORY

1. New section filed 6-12-98; operative 6-12-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 24).

§22002. Criteria for State to Determine if a Digital Signature Technology Is Acceptable for Use by Public Entities.

• Note • History

(a) An acceptable technology must be capable of creating signatures that conform to requirements set forth in California Government Code Section 16.5, specifically,

(1) It is unique to the person using it;

(2) It is capable of verification;

(3) It is under the sole control of the person using it;

(4) It is linked to data in such a manner that if the data are changed, the digital signature is invalidated;

(5) It conforms to Title 2, Division 7, Chapter 10 of the California Code of Regulations.

NOTE

Authority cited: Section 16.5, Government Code. Reference: Section 16.5, Government Code.

HISTORY

1. New section filed 6-12-98; operative 6-12-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 24).

§22003. List of Acceptable Technologies.

• Note • History

(a) The technology known as Public Key Cryptography is an acceptable technology for use by public entities in California, provided that the digital signature is created consistent with the provisions in Section 22003(a)1-5.

(1) Definitions -- For purposes of Section 22003(a), and unless the context expressly indicates otherwise:

(A) "Acceptable Certification Authorities" means a certification authority that meets the requirements of either Section 22003(a)6(C) or Section 22003(a)6(D).

(B) "Approved List of Certification Authorities" means the list of Certification Authorities approved by the Secretary of State to issue certification for digital signature transactions involving public entities in California.

(C) "Asymmetric cryptosystem" means a computer algorithm or series of algorithms which utilize two different keys with the following characteristics:

(i) one key signs a given message;

(ii) one key verifies a given message; and,

(iii) the keys have the property that, knowing one key, it is computationally infeasible to discover the other key.

(D) "Certificate" means a computer-based record which:

(i) identifies the certification authority issuing it;

(ii) names or identifies its subscriber;

(iii) contains the subscriber's public key; and

(iv) is digitally signed by the certification authority issuing or amending it, and

(v) conforms to widely-used industry standards, including, but not limited to ISO x.509 and PGP certificate standards.

(E) "Certification Authority" means a person or entity that issues a certificate, or in the case of certain certification processes, certifies amendments to an existing certificate.

(F) "Key pair" means a private key and its corresponding public key in an asymmetric cryptosystem. The keys have the property that the public key can verify a digital signature that the private key creates.

(G) "Practice statement" means documentation of the practices, procedures and controls employed by a Certification Authority.

(H) "Private key" means the key of a key pair used to create a digital signature.

(I) "Proof of Identification" means the document or documents presented to a Certification Authority to establish the identity of a subscriber.

(J) "Public key" means the key of a key pair used to verify a digital signature.

(K) "Subscriber" means a person who:

(i) is the subject listed in a certificate;

(ii) accepts the certificate; and

(iii) holds a private key which corresponds to a public key listed in that certificate.

(2) California Government Code §16.5 requires that a digital signature be `unique to the person using it'. A public key-based digital signature may be considered unique to the person using it, if:

(A) The private key used to create the signature on the document is known only to the signer, and

(B) the digital signature is created when a person runs a message through a one-way function, creating a message digest, then encrypting the resulting message digest using an asymmetrical cryptosystem and the signer's private key, and,

(C) although not all digitally signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature, and

(D) it is computationally infeasible to derive the private key from knowledge of the public key.

(3) California Government Code §16.5 requires that a digital signature be `capable of verification'. A public-key based digital signature is capable of verification if:

(A) the acceptor of the digitally signed document can verify the document was digitally signed by using the signer's public key to decrypt the message; and

(B) if a certificate is a required component of a transaction with a public agency, the issuing Certification Authority, either through a certification practice statement or through the content of the certificate itself, must identify which, if any, form(s) of identification it required of the signer prior to issuing the certificate.

(4) California Government Code §16.5 requires that the digital signature remain `under the sole control of the person using it'. Whether a signature is accompanied by a certificate or not, the person who holds the key pair, or the subscriber identified in the certificate, assumes a duty to exercise reasonable care to retain control of the private key and prevent its disclosure to any person not authorized to create the subscriber's digital signature pursuant to Evidence Code Section 669.

(5) The digital signature must be linked to the message of the document in such a way that if the data are changed, the digital signature is invalidated.

(6) Acceptable Certification Authorities

(A) The California Secretary of State shall maintain an "Approved List of Certificate Authorities" authorized to issue certificates for digitally signed communication with public entities in California.

(B) Public entities shall only accept certificates from Certification Authorities that appear on the "Approved List of Certification Authorities" authorized to issue certificates by the California Secretary of State.

(C) The Secretary of State shall place Certification Authorities on the "Approved List of Certification Authorities" after the Certification Authority provides the Secretary of State with a copy of an unqualified performance audit performed in accordance with standards set in the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards No. 70 (S.A.S. 70) "Reports on the Processing of Service Transactions by Service Organizations" (1992) to ensure that the Certification Authorities' practices and policies are consistent with the Certifications Authority's stated control objectives. The AICPA Statement on Auditing Standards No. 70 (1992) is hereby incorporated by reference.

(i) Certification Authorities that have been in operation for one year or less shall undergo a SAS 70 Type One audit -- A Report of Policies and Procedures Placed in Operation, receiving an unqualified opinion.

(ii) Certification Authorities that have been in operation for longer than one year shall undergo a SAS 70 Type Two audit -- A Report Of Policies And Procedures Placed In Operation And Test Of Operating Effectiveness, receiving an unqualified opinion.

(iii) To remain on the "Approved List of Certification Authorities" a Certification Authority must provide proof of compliance with Section 20003(a)(6)(C)(ii) to the Secretary of State every two years after initially being placed on the list.

(D) In lieu of completing the auditing requirement in Section 22003(a)(6)(C), Certification Authorities may be placed on the "Approved List of Certification Authorities" upon providing the Secretary of State with proof of accreditation that has been conferred by a national or international accreditation body that the Secretary of State has determined utilizes accreditation criteria that are consistent with the requirements of Section 22003(a)(1)-(5).

(i) Certification Authorities shall be removed from the "Approved List of Acceptable Certifications Authorities" unless they provide current proof of accreditation to the Secretary of State at least once per year.

(ii) If the Secretary of State is informed that a Certification Authority has had its accreditation revoked, the Certification Authority shall be removed from the "Approved List of Certification Authorities" immediately.

(b) The technology known as "Signature Dynamics" is an acceptable technology for use by public entities in California, provided that the signature is created consistent with the provisions in Section 22003(b)(1)-(5).

(1) Definitions -- For the purposes of Section 22003(b), and unless the context expressly indicates otherwise:

(A) "Handwriting Measurements" means the metrics of the shapes, speeds and/or other distinguishing features of a signature as the person writes it by hand with a pen or stylus on a flat surface.

(B) "Signature Digest" is the resulting bit-string produced when a signature is tied to a document using Signature Dynamics.

(C) "Expert" means a person with demonstrable skill and knowledge based on training and experience who would qualify as an expert pursuant to California Evidence Code §720.

(D) "Signature Dynamics" means measuring the way a person writes his or her signature by hand on a flat surface and binding the measurements to a message through the use of cryptographic techniques.

(2) California Government Code §16.5 requires that a digital signatures be `unique to the person using it.' A signature digest produced by Signature Dynamics technology may be considered unique to the person using it, if:

(A) the signature digest records the handwriting measurements of the person signing the document using signature dynamics technology, and

(B) the signature digest is cryptographically bound to the handwriting measurements, and

(C) after the signature digest has been bound to the handwriting measurements, it is computationally infeasible to separate the handwriting measurements and bind them to a different signature digest.

(3) California Government Code §16.5 requires that a digital signature be capable of verification. A signature digest produced by signature dynamics technology is capable of verification if:

(A) the acceptor of the digitally signed message obtains the handwriting measurements for purposes of comparison, and

(B) if signature verification is a required component of a transaction with a public entity, the handwriting measurements can allow an expert handwriting and document examiner to assess the authenticity of a signature.

(4) California Government Code §16.5 requires that a digital signature remain `under the sole control of the person using it'. A signature digest is under the sole control of the person using it if:

(A) the signature digest captures the handwriting measurements and cryptographically binds them to the message directed by the signer and to no other message, and

(B) the signature digest makes it computationally infeasible for the handwriting measurements to be bound to any other message.

(5) The signature digest produced by signature dynamics technology must be linked to the message in such a way that if the data in the message are changed, the signature digest is invalidated.

NOTE

Authority cited: Section 16.5, Government Code. Reference: Section 16.5, Government Code.

HISTORY

1. New section filed 6-12-98; operative 6-12-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 24).

§22004. Provisions for Adding New Technologies to the List of Acceptable Technologies.

• Note • History

(a) Any individual or company can, by providing a written request that includes a full explanation of a proposed technology which meets the requirements of Section 22002, petition the California Secretary of State to review the technology. If the Secretary of State determines that the technology is acceptable for use with the state, the Secretary of State shall adopt regulation(s), pursuant to the Administrative Procedure Act, which would add the proposed technology to the list of acceptable technologies in Section 22003.

(b) The Secretary of State has 180 calendar days from the date the request is received to review the petition and inform the petitioner, in writing, whether the technology is accepted or rejected. If the petition is rejected, the Secretary of State shall provide the petitioner with the reasons for the rejection.

(1) If the proposed technology is rejected, the petitioner can appeal the decision through the Administrative Procedures Act (Government Code Section 11500 et seq).

NOTE

Authority cited: Section 16.5, Government Code. Reference: Section 16.5, Government Code.

HISTORY

1. New section filed 6-12-98; operative 6-12-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 24).

§22005. Criteria for Public Entities To Use in Accepting Digital Signatures.

• Note • History

(a) Prior to accepting a digital signature, public entities shall ensure that the level of security used to identify the signer of a document is sufficient for the transaction being conducted.

(b) Prior to accepting a digital signature, public entities shall ensure that the level of security used to transmit the signature is sufficient for the transaction being conducted.

(c) If a certificate is a required component of a digital signature transaction, public entities shall ensure that the certificate format used by the signer is sufficient for the security and interoperability needs of the public entity.

NOTE

Authority cited: Section 16.5, Government Code. Reference: Section 16.5, Government Code.

HISTORY

1. New section filed 6-12-98; operative 6-12-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 24).

Chapter 11. Safe at Home Confidential Address Program

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

Board Agenda Item VIII.F.6
January 21, 2005

NOTIFICATION AND AGREEMENT TO CONDITIONS FOR THE PRIVILEGE TO PRACTICE PUBLIC ACCOUNTING IN CALIFORNIA PURSUANT TO CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 5096 AND TITLE 16, DIVISION 1, ARTICLE 4 OF THE CALIFORNIA CODE OF REGULATIONS:

Name: _____ Prior Name(s): _____

Firm Name: _____

Address Of Principal Place Of Business (mailing address): _____

Telephone Number (business hours): _____ Fax Number (business hours): _____ Business E-mail: _____

Date Of Birth: ___/___/_____ Social Security Number: _____

QUALIFICATION REQUIREMENTS:

I state as follows:

☐ I am an individual.

2. ☐ My principal place of business is not in California and I do not have an office in California other than through a firm that is registered in California and of which I am an employee; **OR**

☐ I have a pending application for licensure in California under Sections 5087 and 5088.

3. ☐ I qualify for a practice privilege based on my current, valid license to practice public accountancy in the following state:

State: _____ License Number: _____ Date Issued: _____ License Expiration Date: _____

4. ☐ a. The state of licensure identified in Item 3 is deemed substantially equivalent by the California Board of Accountancy (CBA) (see Appendix 1 for a list of substantially equivalent states); **OR**

☐ b. My individual qualifications have been determined by NASBA to be substantially equivalent (NASBA file no. _____); **OR**

☐ c. I have continually practiced public accountancy as a certified public accountant under a valid license issued by any state for 4 of the last 10 years.

5. ☐ I am submitting this notice to the CBA at or before the time I begin the practice of public accountancy in California; **OR**

☐ (This option is only available through December 31, 2007.) I am submitting this notice within five business days after I began the practice of public accountancy in California on __/__/__. My reason(s) for not providing notice on or before that date:

_____

_____

6. ☐ I have met the continuing education requirements and any exam requirements for the state of licensure identified in Item 3 above.

I consent and agree to the following:

7. ☐ To comply with the laws of the State of California, including the California Accountancy Act (Business and Professions Code Section 5000 et seq., accessible at *http://www.dca.ca.gov/cba/acnt_act.htm*) and the regulations thereunder (accessible at *http://www.dca.ca.gov/cba/regs.htm*).

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

9. ☐ To respond fully and completely to all inquiries by the CBA relating to my California practice privilege, including after the expiration of this privilege.

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

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

12. ☐ To concurrently submit the fee of $100.00.

REQUIREMENTS FOR SIGNING ATTEST REPORTS:

I wish to be able to sign an attest report under this practice privilege and, if so, I have at least 500 hours of experience in attest services. ☐ Yes ☐ No

DISQUALIFYING CONDITIONS:

Please check any of the items below that apply. *For any items checked "yes" in (A) – (G), you must provide additional information as requested in Attachment X and* ***you are not authorized to practice in California unless and until you receive notice from the CBA that the privilege has been granted.***

Y ☐ N ☐ A. I have been convicted of a crime other than a minor traffic violation.

Y ☐ N ☐ B. I have had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned except for the following occurrences:

(1) an action by a state board of accountancy in which the only sanction was a requirement that the individual complete specified continuing education courses.
(2) the revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew.

Y	N		
☐	☐	C.	I am currently the subject of an investigation, inquiry or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving my professional conduct.
☐	☐	D.	I have an unresolved administrative suspension or an unpaid fine related to a prior California practice privilege.
☐	☐	E.	I did not respond to a request for information from the CBA related to a prior practice privilege.
☐	☐	F.	I have been notified by the CBA that prior Board approval is required before practice under a new practice privilege may commence.
☐	☐	G.	I have had a judgment or arbitration award against me involving my professional conduct in the amount of $30,000 or greater.

REQUIRED ADDITIONAL INFORMATION:

Do you currently hold a California Practice Privilege? ☐ Yes ☐ No

When does it expire? _____

Have you ever held a California CPA/PA license? ☐ Yes ☐ No License number: _____

In addition to the state of licensure identified in Item 3, I am also authorized to practice in the following:

State: _____ License Number: _____ Other Authority: _____

State: _____ License Number: _____ Other Authority: _____

An answer of "no" to any of the following statements does not disqualify you from a California practice privilege.

I am an associated person of a firm registered with the PCAOB. ☐ Yes ☐ No

My firm has undergone peer review within the last three years. ☐ Yes ☐ No

The state of licensure identified in Item 3 requires CE in fraud detection. ☐ Yes ☐ No
If yes, I have fulfilled this requirement. ☐ Yes ☐ No

I, _____, understand that any misrepresentation or omission in connection with this notification disqualifies me from the California practice privilege and is cause for termination. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. I certify under penalty of perjury under the laws of the State of California that the foregoing information is true and correct.

Signature: _____ Date: _____

Your privilege to practice commences with the submission of your completed notification and your fee. Your privilege expires at the end of one year.

State of California Department of Consumer Affairs

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

ATTACHMENT X

1. If you checked any of items A – G under disqualifying conditions, please provide explanatory details:

_____

_____

_____

2. If you checked Item G under disqualifying conditions, please also provide:

Date of Judgment/ Arbitration Award: _____ Jurisdiction/Court: _____ Docket No: _____

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

State of California
Department of Consumer Affairs

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Memorandum

Practice Privilege TF Agenda Item V.A.
January 20, 2005

Board Agenda Item VIII.F.6.a.
January 21, 2005

To : Practice Privilege Task Force Members
Board Members

Date : January 10, 2005

Telephone : (916) 561-1740
Facsimile : (916) 263-3676
E-mail : pfranz@cba.ca.gov

From : Patti L. Franz
Licensing Manager

Subject : Licensee Comments and Responses to Evaluation of Notification Form

At its meeting of November 18, 2004, the Practice Privilege Task Force requested that staff distribute the draft notification form to a sampling of licensees for evaluation prior to its finalization. The form was e-mailed to 36 California licensees, including the members of the Administrative Committee and the Qualifications Committee. Staff received responses from 21 licensees.

The licensees were requested to provide comments to the following questions:

- Did you encounter any content that was confusing while completing the form?
- Were there sections of the form you believe should be better explained?
- Did you identify additional information you needed in order to complete the form?
- What other suggestions do you have to improve the form?

Provided below are the most substantive comments received. An updated draft notification form with the suggested edits in underline/strikeout format is attached for review (Attachment 1). Staff have incorporated all of the suggested edits for review and consideration by the Task Force (Attachment 2).

Suggested Edits to the Notification Form

Contact Information

- Identify that we are requesting the mailing address for the Principal Place of Business.

Qualification Requirements

- Question 3, Page 1 – Add a field for License Expiration Date.
- Move items 5, 6, 7, 8, 11, and 12 under a separate heading such as "I consent and agree to the following conditions."

- Add check boxes to all of the Qualification Requirements and consent statements.

Additional Information

- The request for information regarding fraud continuing education should be broken into two separate statements. For example:

The state of licensure identified in Item 3 requires CE in fraud detection. ☐ Yes ☐ No
If yes, I have fulfilled this requirement. ☐ Yes ☐ No

Disqualifying Conditions

Suggested Edits to the Notification Form

- Change the labeling of the disqualifying conditions from "1" through "6" to "A" through "F" to alleviate confusion for individuals completing Attachment X.
- Require individuals to answer either "Yes" or "No" to each disqualifying condition.
- Add **California** Board **of Accountancy** to item E to alleviate confusion.

Suggested Edits to the *Certification of Attest Experience* form

The *Certification of Attest Experience* form was also distributed for review.

Provided below are the most substantive comments received regarding the *Certification of Attest Experience* form. An updated *Certification of Attest Experience* form with the suggested edits is attached for review (Attachment 3). Staff have incorporated all of the suggested edits for review and consideration by the Task Force (Attachment 4).

- Add the question, "Have you ever signed an attest report on behalf of your firm?"

It was suggested the following two statements be included in the *Certification of Attest* form. If included in the form, both statements will require narrative from the practice privilege holder. The statements, which are not included in the draft form, are provided to the Task Force for consideration and discussion.

1. Briefly discuss the scope of practice you expect to perform while practicing in California.
2. Describe the experience you have had with respect to the Attestation standards, and the Accounting standards, related to the customary types of transactions you expect to encounter while performing the accounting practice you expect to perform in California.

Suggested Items to be Included in the Instructions to the Notification Form

Also provided below are items suggested to be incorporated into the instructions for the Notification form, which are being presented for consideration and discussion. The draft instructions for the Notification form will be completed for adoption at the March Task Force meeting.

- Provide assurance that the individuals' contact information will not be made available for public requests.
- Define "personal and subject matter" from the second item under the heading "I consent and agree to the following conditions."

Both forms will be revised to reflect the actions of the Task Force and the Board at this meeting.

Attachments

State of California Department of Consumer Affairs

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

DRAFT

Attachment 1

NOTIFICATION AND AGREEMENT TO CONDITIONS FOR THE PRIVILEGE TO PRACTICE PUBLIC ACCOUNTING IN CALIFORNIA PURSUANT TO CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 5096 AND TITLE 16, DIVISION 1, ARTICLE 4 OF THE CALIFORNIA CODE OF REGULATIONS:

Name: _____ Prior Name(s): _____

Firm Name: _____

Address Of Principal Place Of Business (mailing address): _____

Telephone Number (business hours): _____ Fax Number (business hours): _____ Business E-mail: _____

Date Of Birth: ____/____/_____ Social Security Number: _____

QUALIFICATION REQUIREMENTS:

I state as follows:

1. I am an individual.

2. ☐ My principal place of business is not in California and I do not have an office in California other than through a firm that is registered in California and of which I am an employee; **OR**

   ☐ I have a pending application for licensure in California under Sections 5087 and 5088.

3. I qualify for a practice privilege based on my current, valid license to practice public accountancy in the following state:

State: _____ License Number: _____ Date Issued: _____ License Expiration Date: _____

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

   ☐ b. My individual qualifications have been determined by NASBA to be substantially equivalent (NASBA file no. _____); **OR**

   ☐ c. I have continually practiced public accountancy as a certified public accountant under a valid license issued by any state for 4 of the last 10 years.

~~5.~~ ~~I agree to comply with the laws of the State of California, including the California Accountancy Act (Business and Professions Code Section 5000 et seq., accessible at *http://www.dca.ca.gov/cba/acnt_act.htm*) and the regulations thereunder (accessible at *http://www.dca.ca.gov/cba/regs.htm*).~~

~~6.~~ ~~I consent to the personal and subject matter jurisdiction of the California Board of Accountancy (CBA) including, but not limited to, the following:~~

~~a. To suspend or revoke, without prior notice or hearing and in the sole discretion of the CBA or its representatives, the privilege to practice public accounting;~~

~~b. To impose discipline for any violation of the California Accountancy Act or regulations thereunder and recover costs for investigation and prosecution; and~~

~~c. To provide information relating to a practice privilege and/or refer any additional and further discipline to the board of accountancy of any other state and/or the SEC, PCAOB or other relevant regulatory authorities.~~

~~7.~~ ~~I agree to respond fully and completely to all inquiries by the CBA relating to my California practice privilege, including after the expiration of this privilege.~~

~~8.~~ ~~I consent to the authority of the CBA to verify the accuracy and truthfulness of the information provided in this notification. I consent to the release of all information relevant to the CBA's inquiries now or in the future by:~~

~~a. Contacting other state agencies;~~

~~b. Contacting the SEC, PCAOB or any other federal agency before which I am authorized to practice; and~~

~~c. Contacting NASBA.~~

9. I am submitting this notice to the CBA:

☐ At or before the time I begin the practice of public accountancy in California; **OR**

☐ If submitted before December 31, 2007, within five business days after I began the practice of public accountancy in California on __/__/__. My reason(s) for not providing notice on or before that date:

_____

_____

10. ☐ I have met the continuing education requirements and any exam requirements for the state of licensure identified in item 3 above.

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

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

I consent and agree to the following:

☐ ~~I agree~~To comply with the laws of the State of California, including the California Accountancy Act (Business and Professions Code Section 5000 et seq., accessible at *http://www.dca.ca.gov/cba/acnt_act.htm*) and the regulations thereunder (accessible at *http://www.dca.ca.gov/cba/regs.htm*).

☐ ~~I consent~~To the personal and subject matter jurisdiction of the California Board of Accountancy (CBA) including, but not limited to, the following:

d. To suspend or revoke, without prior notice or hearing and in the sole discretion of the CBA or its representatives, the privilege to practice public accounting;
e. To impose discipline for any violation of the California Accountancy Act or regulations thereunder and recover costs for investigation and prosecution; and
f. To provide information relating to a practice privilege and/or refer any additional and further discipline to the board of accountancy of any other state and/or the SEC, PCAOB or other relevant regulatory authorities.

☐ ~~I agree~~ To respond fully and completely to all inquiries by the CBA relating to my California practice privilege, including after the expiration of this privilege.

☐ ~~I consent~~ To the authority of the CBA to verify the accuracy and truthfulness of the information provided in this notification. I consent to the release of all information relevant to the CBA's inquiries now or in the future by:

d. Contacting other state agencies;
e. Contacting the SEC, PCAOB or any other federal agency before which I am authorized to practice; and
f. Contacting NASBA.

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

☐ ~~I am~~ To concurrently submit~~ting~~ the fee of $100.00.

REQUIREMENTS FOR SIGNING ATTEST REPORTS:

I wish to be able to sign an attest report under this practice privilege and I have at least 500 hours of experience in attest services. ☐ Yes ☐ No

REQUIRED ADDITIONAL INFORMATION:

Do you currently hold a California Practice Privilege? ☐ Yes ☐ No

When does it expire? _____

Have you ever held a California CPA/PA license? ☐ Yes ☐ No License number: _____

In addition to the state of licensure identified in item 3, I am also authorized to practice in the following:

State: _____ License Number: _____ Other Authority: _____

State: _____ License Number: _____ Other Authority: _____

I am an associated person of a firm registered with the PCAOB. ☐ Yes ☐ No

My firm has undergone peer review within the last three years. ☐ Yes ☐ No

~~The state of licensure identified in item 3 requires continuing education in fraud detection and I have fulfilled this requirement. ☐ Yes ☐ No~~

The state of licensure identified in Item 3 requires CE in fraud detection. ☐ Yes ☐ No
If yes, I have fulfilled this requirement. ☐ Yes ☐ No

DISQUALIFYING CONDITIONS:

Please check any of the items below that apply. *For any items checked "yes" in ~~(1)-(6)~~(A) – (F), you must provide additional information as requested in Attachment X and* ***you are not authorized to practice in California unless and until you receive notice from the CBA that the privilege has been granted.***

Y ☐ N ☐ ~~1.~~ A. I have been convicted of a crime other than a minor traffic violation.

Y ☐ N ☐ ~~2.~~ B. I have had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned except for the following occurrences:

(A) an action by a state board of accountancy in which the only sanction was a fine of less than $_____ or a requirement that the individual complete specified continuing education courses.

(B) the revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew.

Y ☐ N ☐ ~~3.~~ C. I am currently the subject of an investigation, inquiry or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving my professional conduct.

Y ☐ N ☐ ~~4.~~ D. I have an unresolved administrative suspension or an unpaid fine related to a prior California practice privilege.

Y ☐ N ☐ ~~5.~~ E. I did not respond to a request for information from the California Board of Accountancy related to a prior practice privilege.

Y ☐ N ☐ ~~6.~~ F. I have had a judgment or arbitration award against me involving my professional conduct in the amount of $30,000 or greater.

I, _____, understand that any misrepresentation or omission in connection with this notification disqualifies me from the California practice privilege and is cause for termination. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. I certify under penalty of perjury under the laws of the State of California that the foregoing information is true and correct.

Signature: _____ Date: _____

Your privilege to practice commences with the submission of your completed notification and your fee. Your privilege expires one year from the date of this notice.

State of California Department of Consumer Affairs

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

ATTACHMENT X

1. If you checked any of items ~~1–6~~ A – F under disqualifying conditions, please provide explanatory details:

_____

_____

_____

2. If you checked item ~~6~~ F under disqualifying conditions, please also provide:

Date of Judgment/
Arbitration Award: _____ Jurisdiction/Court: _____ Docket No: _____

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

State of California Department of Consumer Affairs

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DRAFT

Attachment 2

NOTIFICATION AND AGREEMENT TO CONDITIONS FOR THE PRIVILEGE TO PRACTICE PUBLIC ACCOUNTING IN CALIFORNIA PURSUANT TO CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 5096 AND TITLE 16, DIVISION 1, ARTICLE 4 OF THE CALIFORNIA CODE OF REGULATIONS:

Name: _____ Prior Name(s): _____

Firm Name: _____

Address Of Principal Place Of Business (mailing address): _____

Telephone Number (business hours): _____ Fax Number (business hours): _____ Business E-mail: _____

Date Of Birth: ____/____/_____ Social Security Number: _____

QUALIFICATION REQUIREMENTS:

I state as follows:

1. I am an individual.

2. ☐ My principal place of business is not in California and I do not have an office in California other than through a firm that is registered in California and of which I am an employee; **OR**

   ☐ I have a pending application for licensure in California under Sections 5087 and 5088.

3. I qualify for a practice privilege based on my current, valid license to practice public accountancy in the following state:

State: _____ License Number: _____ Date Issued: _____ License Expiration Date: _____

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

   ☐ b. My individual qualifications have been determined by NASBA to be substantially equivalent (NASBA file no. _____); **OR**

   ☐ c. I have continually practiced public accountancy as a certified public accountant under a valid license issued by any state for 4 of the last 10 years.

5. I am submitting this notice to the CBA:

   ☐ At or before the time I begin the practice of public accountancy in California; **OR**

   ☐ If submitted before December 31, 2007, within five business days after I began the practice of public accountancy in California on __/__/__. My reason(s) for not providing notice on or before that date:

   _____

6. ☐ I have met the continuing education requirements and any exam requirements for the state of licensure identified in item 3 above.

I consent and agree to the following:

☐ To comply with the laws of the State of California, including the California Accountancy Act (Business and Professions Code Section 5000 et seq., accessible at *http://www.dca.ca.gov/cba/acnt_act.htm*) and the regulations thereunder (accessible at *http://www.dca.ca.gov/cba/regs.htm*).

☐ To the personal and subject matter jurisdiction of the California Board of Accountancy (CBA) including, but not limited to, the following:

a. To suspend or revoke, without prior notice or hearing and in the sole discretion of the CBA or its representatives, the privilege to practice public accounting;
b. To impose discipline for any violation of the California Accountancy Act or regulations thereunder and recover costs for investigation and prosecution; and
c. To provide information relating to a practice privilege and/or refer any additional and further discipline to the board of accountancy of any other state and/or the SEC, PCAOB or other relevant regulatory authorities.

☐ To respond fully and completely to all inquiries by the CBA relating to my California practice privilege, including after the expiration of this privilege.

☐ To the authority of the CBA to verify the accuracy and truthfulness of the information provided in this notification. I consent to the release of all information relevant to the CBA's inquiries now or in the future by:

a. Contacting other state agencies;
b. Contacting the SEC, PCAOB or any other federal agency before which I am authorized to practice; and
c. Contacting NASBA.

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

☐ To concurrently submit the fee of $100.00.

REQUIREMENTS FOR SIGNING ATTEST REPORTS:

I wish to be able to sign an attest report under this practice privilege and I have at least 500 hours of experience in attest services. ☐ Yes ☐ No

REQUIRED ADDITIONAL INFORMATION:

Do you currently hold a California Practice Privilege? ☐ Yes ☐ No

When does it expire? _____

Have you ever held a California CPA/PA license? ☐ Yes ☐ No License number: _____

In addition to the state of licensure identified in Item 3, I am also authorized to practice in the following:

State: _____ License Number: _____ Other Authority: _____

State: _____ License Number: _____ Other Authority: _____

I am an associated person of a firm registered with the PCAOB. ☐ Yes ☐ No

My firm has undergone peer review within the last three years. ☐ Yes ☐ No

The state of licensure identified in Item 3 requires CE in fraud detection. ☐ Yes ☐ No
If yes, I have fulfilled this requirement. ☐ Yes ☐ No

DISQUALIFYING CONDITIONS:

Please check any of the items below that apply. *For any items checked "yes" in (A) – (F), you must provide additional information as requested in Attachment X and* ***you are not authorized to practice in California unless and until you receive notice from the CBA that the privilege has been granted.***

Y ☐ N ☐ A. I have been convicted of a crime other than a minor traffic violation.

Y ☐ N ☐ B. I have had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned except for the following occurrences:

(A) an action by a state board of accountancy in which the only sanction was a fine of less than $_____ or a requirement that the individual complete specified continuing education courses.

(B) the revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew.

Y ☐ N ☐ C. I am currently the subject of an investigation, inquiry or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving my professional conduct.

Y ☐ N ☐ D. I have an unresolved administrative suspension or an unpaid fine related to a prior California practice privilege.

Y ☐ N ☐ E. I did not respond to a request for information from the California Board of Accountancy related to a prior practice privilege.

Y ☐ N ☐ F. I have had a judgment or arbitration award against me involving my professional conduct in the amount of $30,000 or greater.

I, _____, understand that any misrepresentation or omission in connection with this notification disqualifies me from the California practice privilege and is cause for termination. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. I certify under penalty of perjury under the laws of the State of California that the foregoing information is true and correct.

Signature: _____ Date: _____

Your privilege to practice commences with the submission of your completed notification and your fee. Your privilege expires one year from the date of this notice.

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

ATTACHMENT X

1. If you checked any of items A – F under disqualifying conditions, please provide explanatory details:

_____

_____

_____

2. If you checked item F under disqualifying conditions, please also provide:

Date of Judgment/
Arbitration Award: _____ Jurisdiction/Court: _____ Docket No: _____

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

State of California Department of Consumer Affairs

CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3676
WEB ADDRESS: http://www.dca.ca.gov/cba

Attachment 3

CERTIFICATION OF ATTEST EXPERIENCE

PRINT OR TYPE

FULL NAME OF LICENSEE: (No Initials) (First) (Middle) (Last)	SOCIAL SECURITY #

FIRM NAME (IF ANY)	CURRENT TITLE
BUSINESS ADDRESS (Including City, State, and Zip Code)	
BUSINESS TELEPHONE: Area Code ( )	Approximate Number of Years Practicing Public Accountancy

Pursuant to Section 5096.5, you may not sign an attest report unless you have 500 hours of experience in attest services (see Section 5095 of the California Business and Professions Code). For these purposes, experience is that which has enabled you to demonstrate an understanding of the requirements of planning and conducting an audit with minimum supervision which results in opinions on full disclosure financial statements.

		Yes	No
I.	Have you participated in the planning of an audit, including the selection of the procedures to be performed?		
II.	Have you had experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions included in financial statements?		
III.	Have you had experience in the preparation of working papers in connection with the various elements of I and II above?		
IV.	Have you had experience in the preparation of written explanations and comments on the work performed and its findings?		
V.	Have you participated in the preparation of and reporting on full disclosure financial statements?		
VI.	Have you ever signed an attest report on behalf of your firm?		

I hereby certify, under penalty of perjury under the laws of the State of California, that I have met California's experience requirement, Section 5095, prior to the submission of the notification of practice privilege, and that all statements and representations on this form are true and correct.

Licensee Signature	Date Signed

CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3676
WEB ADDRESS: http://www.dca.ca.gov/cba

Attachment 4

CERTIFICATION OF ATTEST EXPERIENCE

PRINT OR TYPE

FULL NAME OF LICENSEE: (No Initials) (First) (Middle) (Last)	SOCIAL SECURITY #

FIRM NAME (IF ANY)	CURRENT TITLE
BUSINESS ADDRESS (Including City, State, and Zip Code)	
BUSINESS TELEPHONE: Area Code ( )	Approximate Number of Years Practicing Public Accountancy

Pursuant to Section 5096.5, you may not sign an attest report unless you have 500 hours of experience in attest services (see Section 5095 of the California Business and Professions Code). For these purposes, experience is that which has enabled you to demonstrate an understanding of the requirements of planning and conducting an audit with minimum supervision which results in opinions on full disclosure financial statements.

		Yes	No
I.	Have you participated in the planning of an audit, including the selection of the procedures to be performed?		
II.	Have you had experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions included in financial statements?		
III.	Have you had experience in the preparation of working papers in connection with the various elements of I and II above?		
IV.	Have you had experience in the preparation of written explanations and comments on the work performed and its findings?		
V.	Have you participated in the preparation of and reporting on full disclosure financial statements?		
VI.	Have you ever signed an attest report on behalf of your firm?		

I hereby certify, under penalty of perjury under the laws of the State of California, that I have met California's experience requirement, Section 5095, prior to the submission of the notification of practice privilege, and that all statements and representations on this form are true and correct.

Licensee Signature	Date Signed