State of California Department of Consumer Affairs

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

FINAL

MINUTES OF THE September 14-15, 2006 BOARD MEETING

Courtyard by Marriott
4422 Y Street
Sacramento, CA 95817
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I. Call to Order.

President Ronald Blanc called the meeting to order at 1:35 p.m. on Thursday, September 14, 2006, at the Courtyard by Marriott and the Board and ALJ Leonard Scott heard Agenda Item XII.A. The Board convened into closed session at 2:35 p.m. to deliberate and also to consider Agenda Items XII.B-K. The meeting adjourned at 4:15 p.m. President Ronald Blanc again called the meeting to order at 9:00 a.m. on Friday, September 15, 2006, and the meeting adjourned at 12:32 p.m.

Board Members	September 14, 2006
Ronald Blanc, President	1:35 p.m. to 4:15 p.m.
David Swartz, Vice President	1:35 p.m. to 4:15 p.m.
Ruben Davila, Secretary-Treasurer	1:35 p.m. to 4:15 p.m.
Richard Charney	1:35 p.m. to 4:15 p.m.
Angela Chi	Absent
Donald Driftmier	1:35 p.m. to 4:15 p.m.
Sally Flowers	1:35 p.m. to 4:15 p.m.
Thomas Iino	1:35 p.m. to 4:15 p.m.
Clifton Johnson	1:35 p.m. to 4:15 p.m.
Bill MacAloney	Absent
Robert Petersen	1:35 p.m. to 4:15 p.m.
Renata M. Sos	Absent
Stuart Waldman	1:35 p.m. to 4:15 p.m.

Board Members	September 15, 2006
Ronald Blanc, President	9:00 a.m. to 12:32 p.m.
David Swartz, Vice President	9:00 a.m. to 12:32 p.m.
Ruben Davila, Secretary-Treasurer	9:10 a.m. to 12:32 p.m.
Richard Charney	9:00 a.m. to 12:32 p.m.
Angela Chi	Absent
Donald Driftmier	9:00 a.m. to 12:32 p.m.
Sally Flowers	9:00 a.m. to 12:32 p.m.
Thomas Iino	9:00 a.m. to 12:32 p.m.
Clifton Johnson	9:00 a.m. to 12:32 p.m.
Bill MacAloney	Absent
Robert Petersen	9:00 a.m. to 12:32 p.m.
Renata M. Sos	9:00 a.m. to 12:32 p.m.
Stuart Waldman	9:00 a.m. to 12:32 p.m.

Staff and Legal Counsel

Mary Crocker, Assistant Executive Officer
Alice Delvey-Williams, Exam and RCC Manager
Patti Franz, Chief, Licensing Division
Michael Granen, Deputy Attorney General, Board Liaison
Corina Meloche, RCC Coordinator
Greg Newington, Chief, Enforcement Program
Dan Rich, Administration Manager (September 15, 2006)
George Ritter, Legal Counsel
Kris McCutchen, Licensing Manager
Michele Santaga, Enforcement Analyst (September 14, 2006)
Theresa Siepert, Executive Analyst
Carol Sigmann, Executive Officer
Aronna Wong, Regulation/Legislation Analyst

Committee Chairs and Members

Roger Bulosan, Chair, Qualifications Committee
Harish Khanna, Chair, Administrative Committee

Other Participants

Courtney Bolin Nash, Center for Public Interest (CPIL)
Tina Caratan, Moss Adams LLP (September 14, 2006)
Julie D'Angelo Fellmeth, Center for Public Interest (CPIL)
Conrad Davis, California Society of Certified Public Accountants (CalCPA) (September 14, 2006)
Mike Duffey, Ernst & Young LLP
Sandra Duffy (September 15, 2006)

Michelle Elder, Society of California Accountants (SCA)
Peggy Ford Smith, Society of California Accountants (SCA)
Ken Hansen, KPMG LLP
Patricia Harris, Deputy Director, Bureau Relations, DCA
(September 15, 2006)
Bobbie Jarvis, CA Society of Accounting and Tax Professionals (CSATP)
Rich Jones, Washington Society of CPAs (September 14, 2006)
David Link, Senator Figueroa's Staff
Richard Robinson, E&Y, DT, PWC, KPMG
Hal Schultz, California Society of Certified Public Accountants (CalCPA)
Antonette Sorrick, Deputy Director, Board Relations DCA
(September 14, 2006)
Rick Sweeney, Washington State Board of Accountancy
(September 14, 2006)
Jeannie Tindel, California Society of Certified Public Accountants (CalCPA)
David Tolken, Society of California Accountants (SCA)
Mike Ueltzen, American Institute of Certified Public Accountants (AICPA)
(September 14, 2006)
Ross Warren, Assembly Business and Professions Committee
(September 14, 2006)
Bruce Wheeler (September 15, 2006)

II. Board Minutes.

A. Draft Board Minutes of the July 21, 2006, Board Meeting.

The draft Board minutes of the July 21, 2006, Board meeting were adopted on the Consent Agenda. (See Agenda Item XIII.B.)

III. Report of the President.

Mr. Blanc welcomed Ms. Rosario Marin who was appointed by Governor Schwarzenegger as the Secretary of the State and Consumers Services Agency which is a cabinet position. He noted that Ms. Marin had a long resume of public service as a member and chair of the Integrated Waste Management Board and also as Treasurer of the United States. Mr. Blanc indicated that it was a great pleasure to meet her and it was an honor for her to join the Board.

Ms. Marin thanked Mr. Blanc and indicated that it was her pleasure to be at the Board meeting as Secretary. She added that it was an incredible privilege to oversee the Department of Consumer Affairs, as well as the many other departments, museums, commissions, and other jobs that she was responsible for. She indicated that she believed that it was incredibly important to visit as many of the boards and commissions to say hello and let the Board know how much its service, time, effort and energy for the

C. Update on and Implementation of AB 1868 (Bermudez).

Mr. Blanc indicated he was pleased to report that AB 1868 had passed the Assembly by a 71 to 7 vote however, it had not yet been enrolled and sent to the Governor. Mr. Blanc reported that the language the Board adopted at its last meeting is currently in the bill. With these amendments the bill will clean up practice privilege issues, confirm the Board's jurisdiction for out-of-state practitioners, restore temporary and incidental practice with strict limitations, and allow international accountants to come into California without notice or restrictions with certain limitations. Mr. Blanc reported that the Board is now invited by the Legislature to reconsider the whole concept of practice privilege and cross-border practice over the next five years. Mr. Blanc expressed his thanks to Ms. Sos, Ms. D'Angelo Fellmeth, Mr. Robinson, and Ms. Tindel who had worked tirelessly to craft a practice privilege concept in an innovative effort to deal with cross-border practice. Mr. Blanc indicated that he appreciated the Board's and staff's work and Ms. Sigmann's leadership.

D. Update on SB 503 (Figueroa).

Mr. Blanc was pleased to report that SB 503 had passed both the Assembly and the Senate after several special hearings at the Legislature. Ms. Sigmann and Ms. Wong had spent several days working this piece of legislation. Ms. Sigmann indicated that this was one of the more challenging and unique legislative experiences she has had in state government. She indicated that she worked closely with the Republicans to communicate the importance of the legislation, which resulted in aye votes from the Republicans in the Senate. Ms. Sigmann reported that the language in the bill will allow the Board the option of not raising costs for new licensees. The Board wanted to eliminate barriers to entry into the profession, and cost was the key. She noted that there was additional language in the bill that parallels the language in AB 1868. SB 503 also extends the deadline for the Board's report on peer review until September 1, 2011. The bill is awaiting the Governor's signature.

IV. Report of the Vice-President.

A. Committee Appointment.

Mr. Swartz reported that he would like to nominate Mr. Fausto Hinojosa to become a member of the QC. He noted that at the next Board meeting, he was planning on recommending extending for an additional year the term of Mr. Bulosan as Chair of the QC and Mr. Williams as a member of the committee.

Mr. Kabani, Ms. Norwood, and Mr. Faimann.

C. Committee on Professional Conduct (CPC).

1. Minutes of the July 20, 2006, CPC Meeting.

   The minutes of the July 20, 2006, CPC meeting were adopted on the Consent Agenda. (See Agenda Item XIII.B.)

2. Report on the September 14, 2006, CPC Meeting.

   Mr. Swartz reported that the CPC discussed the following agenda items.

3. Policy Issues for Future Consideration Related to AB 1868 and Practice Privilege.

   Mr. Swartz reported that the CPC met yesterday and heard comments from a number of stakeholders regarding temporary/incidental practice and related issues. The minutes of the CPC meeting will provide a complete summary of these comments. This report provides a brief overview.

   Comments from Hal Schultz, representing CalCPA: He indicated that temporary/incidental practice is something that can be recognized when it occurs, but is hard to define. He also suggested that it would be better to list the activities that are prohibited under temporary/incidental practice rather than trying to develop a list of all of the activities that are permitted. He further indicated that he agreed that the development, implementation, or marketing of abusive tax shelters – as stated in AB 1868 – should be prohibited.

   Comments from Richard Robinson: He told the CPC that he agreed with the approach outlined by Mr. Schultz. He added that being the engagement partner on an audit engagement should be included on the list of activities that are prohibited under temporary/incidental practice. However, there needs to be a factual basis for any further limitations. He also indicated that the Board's decision will be considered by other states as California is looked to as national model.

   Comments from Rick Sweeney Executive Officer of the Washington State Board of Accountancy: He reported that his state currently permits up to 10 percent of an out-of-state licensee's work hours to be in Washington without a practice privilege.

However, he does not believe this is a good approach. He suggested that the focus should be on jurisdiction, cooperation and consumer choice. He further indicated that the Washington Board intends to initiate enforcement action against licensees from other states who violate Washington statutes or Washington licensees who violate the statutes of other states.

Comments from Julie D'Angelo Fellmeth of CPIL: She suggested that, rather than focusing on defining temporary/incidental practice, the focus should be on making practice privilege available for licensees from non-substantially equivalent states. She added that the Board may also want to consider the issue of what constitutes the practice of public accountancy in this state.

Comments from Mary Crocker, Board staff: She indicated that staff proposed temporary/incidental practice in February to address confusion related to practice privilege. It was not intended to be a permanent solution. She also indicated that perhaps the other issues on the issues list (firm practice, tax services, and practice privilege for licensees from non-substantially equivalent states) should be discussed before temporary/incidental practice. Resolution of those issues might clarify if temporary/incidental practice is even needed.

Comments from Tina Caratan auditor and former chair of the QC: She indicated that the third bullet under Issue 1 — Who on the audit team can practice under the temporary/incidental practice provision and who needs a practice privilege — is a very important issue and the CPC needs to consider it. **(See Attachment 4.)**

Comments from Mike Ueltzen – representing the AICPA: He indicted that the issues before the Board are multi-state issues, and in May 2006, the AICPA formed a committee to address them. He noted that the matter is extremely complex, and may affect small firms more than larger firms. For example, to be involved in one conference call, a practitioner could be required to comply with several laws in several states or jurisdictions. He added that his AICPA committee is targeting December to develop a recommendation.

Mr. Swartz indicated that the CPC will continue its discussion of these important issues at its next meeting.

Ms. Sos apologized for not attending the meeting yesterday, and explained that she wanted to provide a historical perspective. She indicated that the urgency legislation was developed due to unanticipated issues that arose due to the intersection between

Practice Privilege, the definition of the practice of public accountancy in California, and firm registration requirements. Ms. Sos indicated that the Board received extensive testimony regarding the unintended barriers to entry that related to three major issues; tax practice, firm registration requirements, and the issue of what happens to people from non-substantially equivalent states. There was also discussion related to people who are providing litigation support services and other gray areas with respect to the definition of the practice of public accountancy in California.

Ms. Sos indicated that she believed that temporary and incidental practice as it was put into the statute was intended to be provisional and temporary. The objective was to create a place holder that would eliminate barriers to entry while this Board had an opportunity to meaningfully, and thoroughly deliberate on some very substantive issues that the Board did not believe it could address on an emergency basis. Ms. Sos reported that those issues were: 1) what to do with people from non-substantially equivalent states; and 2) how does the Board look at the definition of the practice of public accountancy in Section 5051 of the statutes. There could be two perspectives; 1) there should be some exceptions for activities such as litigation support and expert witness testimony, with the understanding that the definition of the practice of public accountancy in California is fairly broad; and 2) there should be some consideration of what it means to be present in California, and what qualifies as the practice of public accountancy in this state, particularly when the services are being provided from outside of the state.

Ms. Sos indicated that this is her recollection of the purpose of putting in this very limited version of temporary and incidental practice into statute.

Ms. Sos suggested that the focus should be on the bigger issues first. Then it was her hope that by extending the umbrella of Practice Privilege and dealing these substantive issues around what is the practice of public accountancy in California, temporary and incidental practice will not be needed. Ms. Sos indicated that she did not believe that the Board should be spending its resources at this time on trying to define temporary and incidental practice because the resources would be better spent looking at these substantive issues. She concluded her comments by indications that she hopes that consideration of the main substantive issue would ultimately result in the elimination of the need for temporary and incidental practice.

Mr. Swartz indicated that Ms. Sos' comments were not inconsistent with many made the previous day.

4. Discussion Related to Defining Temporary/Incidental Practice.

   See Agenda Item IX.C.3.

D. Legislative Committee.

1. Minutes of the July 20, 2006, Legislative Committee Meeting.

   The minutes of the July 20, 2006, Legislative Committee meeting were adopted on the Consent Agenda. (See Agenda Item XIII.B.)

2. Update on Legislation.

   Mr. Waldman reported that at the last Board meeting, the Board decided to discontinue tracking a number of bills which were amended to be unrelated to this Board. He indicated that the Legislative session is now over. Aside from SB 503 and AB 1868 which are part of the President's report, AB 2927 by Assembly Member Leno is the only bill the Board is currently tracking that has passed the Legislature and gone to the Governor. However, the Governor has not taken action on this bill.

   Mr. Waldman noted that when it was last discussed by the Board, AB 2927 contained a number of requirements for state agency Web sites related to public records requests. The Board had serious concerns regarding the cost and workload associated with implementing these requirements. Mr. Waldman reported that AB 2927 was amended to delete the more onerous requirements, and only requires that the Web site include information about how to contact the agency, how to request records, and a form for submitting online requests.

   Mr. Waldman added that AB 2927 also provides for review by the Attorney General's Office when a state agency denies a public records request, and requires the Department of Justice to convene a task force to study the posting of public records requests on state agency web sites.

E. Enforcement Program Oversight Committee (EPOC).

1. Minutes of the July 20, 2006, EPOC Meeting.

   The minutes of the July 20, 2006, EPOC meeting were adopted on the Consent Agenda. (See Agenda Item XIII.B.)

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CPC Agenda Item II — September 14, 2006
Board Agenda Item IX.C.3 — September 14 -15, 2006

POLICY ISSUES FOR FUTURE CONSIDERATION RELATED TO AB 1868 AND PRACTICE PRIVILEGE

When the Board proposed the statute changes now in AB 1868, it was with the understanding that before the 2011 sunset of these provisions, the Board would continue to evaluate the impact of practice privilege and related law changes. A compendium of issues is to be considered, after which the Board would propose any statutory modifications to facilitate cross-border practice without compromising our protection of California consumers.

Below are the issues for future discussion approved by the Board at its meeting of July 21, 2006.

Issue 1: Defining temporary/incidental practice.

- What activities should be permitted?
- What activities should be prohibited?
- Who on the audit team can practice under the temporary/incidental practice provision and who needs a practice privilege?
- When preparing a tax return, who can work under the temporary/incidental practice provision and who needs a practice privilege?
- Does permitting temporary/incidental practice place consumers at risk?

Issue 2: Firm Practice Privilege.

- Is allowing a firm to practice through a practice privilege holder adequate to meet the needs of practitioners and consumers?
- Would establishing a practice privilege for firms be a better alternative?

Issue 3: Tax Services.

- Are the provisions in AB 1868, when combined with current Section 5054, adequate to meet the needs of consumers to receive tax services from the practitioners of their choice? If not, what changes are needed?
- Do these provisions adequately address the needs of practitioners to provide tax services without unnecessary or burdensome regulation? If not, what changes are needed?
- How should "tax services" be defined?

Issue 4: Practice Privilege for Licensees from Non-Substantially Equivalent States.

Michelle Mills
<mmills@cba.ca.gov>
09/01/2006 11:21 AM

To: rdavila@marshall.usc.edu, tiino@deloitte.com, clifton.johnson@uboc.com, ddriftmier@vtdcpa.com, milesos@msn.com, ronblanc.lawyer@hotmail.com, richar5507@aol.com, stuart.waldman@asm.ca.gov, jaxmarkets@aol.com, sheintz@surewest.net, zunigaflowers@yahoo.com, david.swartz@gsbbcpa.com, bpetersencpa@yahoo.com, angelac@wcac-cpa.com, prekel@aol.com, rmiller@mngcpa.com, cpalobby@calcpa.org, bruce.allen@calcpa.org, jeannie.tindel@calcpa.org, ed@eebcpas.com, dcalegari@gosca.com, kristine.caratan@mossadams.com, mchakarun@nsacct.org, julied@SanDiego.edu, supercpa@pacbell.net, michael.duffey02@ey.com, bob@eebcpas.com, gene.erbstoesser@ey.com, kdbare@pacbell.net, amkcpacfe@sbcglobal.net, iralandis@hotmail.com, ke6vgv@aol.com, dmcnallycpa@earthlink.net, kreid@mcnallytemple.com, rrobinson@rrassoc.com, harold.s.schultz@us.pwc.com, sturg@sbcglobal.net, neal.west@mossadams.com, artbcpa@aol.com, gbong@bbrcpa.com, rbulosan@lautze.com, harish.khanna@us.pwc.com, vicki@americanfinancialtax.com, kplatz@schwartzplatz.com, dawn@gbacpa.com, csigmann@cba.ca.gov, mcrocker@cba.ca.gov, gnewington@cba.ca.gov, tsiepert@cba.ca.gov, pfranz@cba.ca.gov, awong@cba.ca.gov, mgale@cba.ca.gov, pbruning@cba.ca.gov, msantaga@cba.ca.gov, George_Ritter@dca.ca.gov, Michael.Granen@doj.ca.gov, Jeanne.Werner@doj.ca.gov, Laura_Zuniga@dca.ca.gov, katy.cpa@verizon.net, robin.hartley@sen.ca.gov, doreathea_johnson@dca.ca.gov, rhohnsbeen@aol.com, bluok@aol.com, david.link@sen.ca.gov, choy@rrassoc.com, rriley1295@aol.com, bill.gage@sen.ca.gov, antonette_sorrick@dca.ca.gov, khansen@kpmg.com, ross.warren@asm.ca.gov, eh4@sbcglobal.net, adelveywilliams@cba.ca.gov, david@dtaxpro.com
cc:
Subject: Temporary/Incidental Practice

Please see the attached memo from David Swartz, Chair of the Committee on Professional Conduct.

- Temporary and Incidental Practice.pdf

State of California
Department of Consumer Affairs

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

Memorandum

To: All Interested Persons

Date: September 1, 2006

Telephone : (916) 561-1718
Facsimile : (916) 263-3674

From: David Swartz, Chair
Committee on Professional Conduct (CPC)

Subject : **Discussion of Temporary/Incidental Practice at September 14, 2006, CPC Meeting**

For its meeting of September 14, 2006, the Board's Committee on Professional Conduct (CPC) has scheduled a discussion of the temporary/incidental practice exemption contained in AB 1868. We anticipate that this will be the first of several meetings to consider this exemption and arrive at a definition of "temporary/ incidental practice" that we would ultimately propose as a regulation. Because of its importance, we are soliciting input from stakeholders and interested members of the public.

Although there may not be adequate time for a comprehensive response before the September 14 meeting, we ask that you be prepared to provide oral comments and ideas so as to make the discussion at the upcoming CPC meeting more productive. To assist you in formulating your responses, I am attaching a list of policy issues adopted by the Board at its July 21, 2006, meeting. We will concentrate our September 14 discussion on Issue Number 1. We thank you for your assistance.

Attachment

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POLICY ISSUES FOR FUTURE CONSIDERATION RELATED TO AB 1868 AND PRACTICE PRIVILEGE

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- How should "tax services" be defined?

Issue 4: Practice Privilege for Licensees from Non-Substantially Equivalent States.

State of California
Department of Consumer Affairs

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

Memorandum

CPC Agenda Item III
September 14, 2006

Board Agenda Item IX.C.4
September 14-15, 2006

To : CPC Members
Board Members

Date: September 5, 2006
Telephone : (916) 561-1788
Facsimile : (916) 263-3674
E-mail: awong@cba.ca.gov

From : Aronna Wong
Legislation/Regulations Coordinator

Subject : Background Information – Discussion Related to Defining Temporary/Incidental Practice – 2006 Minutes

Attached as background information for your discussion related to defining temporary/incidental practice are excerpts related to this topic from the minutes of the February 22, 2006, Committee on Professional Conduct (CPC) Meeting and February 23, 2006, Board Meeting.

Attachments

State of California Department of Consumer Affairs

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COMMITTEE ON PROFESSIONAL CONDUCT
MINUTES OF THE MEETING

FINAL

February 22, 2006
California Board of Accountancy Office
2000 Evergreen Street, Suite 250
Sacramento, CA 95815

CALL TO ORDER

The meeting of the Committee on Professional Conduct (CPC) was called to order at 10:00 a.m. by Gail Hillebrand, Chair. Ms. Hillebrand provided participants with an overview of the meeting indicating that the purpose of the meeting was to evaluate the issues and develop recommendations for consideration by the Board at its meeting the next day. She noted that there will be time during the meeting for comments by members of the public. She then stated that to ensure compliance with the Bagley-Keene Open Meeting Act as amended January 1, 2006, any Board members not serving on the CPC must attend as observers only. Ms. Hillebrand then asked the members of the Committee and the public to introduce themselves.

Present:
Gail Hillebrand, Chair
Ronald Blanc
Donald Driftmier
Thomas Iino
Renata Sos
David Swartz

Staff and Legal Counsel
Mary Crocker, Assistant Executive Officer
Alice Delvey-Williams, RCC/Practice Privilege Coordinator
Patti Franz, Licensing Manager
Michael Granen, Deputy Attorney General
Larry Knapp, Supervising Investigative CPA
Nicholas Ng, Practice Privilege Analyst
Dan Rich, Manager, Administrative Services
George Ritter, Legal Counsel
Theresa Siepert, Executive Analyst
Carol Sigmann, Executive Officer
Aronna Wong, Legislation/Regulations Coordinator

Other Participants

IV. Consideration of Statutory Amendments Related to Temporary Practice and/or the Implementation of Practice Privilege.

As a starting point for the discussion of possible statutory changes, Ms. Sos presented the following proposal: 1) restore temporary/incidental practice to a limited extent with the provisos that there be no holding out as a California CPA, no solicitation of clients, and that there be consent to the jurisdiction and disciplinary authority of the Board; 2) to address the firm registration issue, there would be a provision that indicates if an out-of-state firm is practicing through a practice privilege holder, and only through a practice privilege holder, the firm would not need to register but would consent to the Board's jurisdiction; and 3) there would be an overarching jurisdictional provision that would give the Board jurisdiction over the firm akin to the jurisdiction over individuals that is provided in Section 5096.1. She added that she believed these changes would make Section 5054, as it is in current law, unnecessary, and that practice privilege should be retained.

Ms. Hillebrand expressed support for this concept, but indicated that she found it difficult to suggest restoring temporary/incidental practice. Ms. Sos agreed, but noted that the alternative to the short term restoration of a restricted form of temporary/incidental practice would be to establish a broad exception under Section 5054. That option did not seem practical since there was not time to identify all of the services that would need to be included.

Mr. Blanc indicated that he too had concern about the restoration of temporary/ incidental practice. He also expressed concern that making this change and repealing Section 5054 would be confusing to practitioners since it would involve the repeal of the one provision that gave them the ability to do tax work without a practice privilege. He suggested that instead Section 5054 should be expanded to clarify that out-of-state CPAs are permitted to provide tax services. Mr. Robinson expressed support for expanding Section 5054 to include all tax services.

Ms. Hillebrand noted that if Section 5054 is expanded to cover tax services and the firm registration issue is resolved along the lines suggested by Ms. Sos, the temporary/incidental provision might not be needed. Mr. Robinson indicated that the restoration of temporary/incidental practice would address the services such as litigation support and expert witness testimony. He added that, with these changes in place, he believed all of the concerns would be resolved.

During the discussion that followed, Ms. Crocker indicated that she believed staff might get inquiries regarding the meaning of the term "tax services." Mr. Blanc indicated that he believed the concept of "tax services" is well understood by the profession. Ms. Hillebrand indicated that she was troubled by the term "tax services," and that there may be unintended consequences of going beyond permitting the preparation of tax returns to permit the full range of tax services.

agreed with Mr. Robinson. Mr. Duffey also agreed and noted that it would provide time to analyze the issues. He added that the UAA Committee would be discussing what constitutes practice in a state, and that discussion might yield useful information for the Board to consider.

Ms. D'Angelo Fellmeth indicated that she was loathe to restore temporary/incidental practice as it provides no protection for consumers or for practitioners. She added she was willing to support restoring it for a brief period of time. She also indicated that she believed the practice privilege provisions should remain as practice privilege is the way of the future and will facilitate both consumer protection and cross-border practice.

Mr. Blanc also expressed aversion to restoring temporary/incidental practice, but added that he understood, in the time available, it was not possible to identify all of the services that should be exempted.

Ms. Hillebrand asked for staff's view of the proposal. Ms. Sigmann indicated that staff had a comfort level with the temporary/incidental proposal since it would allow time for the difficult issues to be addressed.

It was then moved by Ms. Sos, seconded by Mr. Swartz, and unanimously carried to recommend restoring temporary/incidental practice on a temporary basis with the proviso that there be consent to jurisdiction, no holding out as a California CPA, and no solicitation of California clients.

Ms. Sos noted that the purpose of this temporary restoration would be to allow time for the Board to study the issues including the following: 1) the issue of what additional services should be exempted, 2) the issue of what does it mean to be present in this state including the subsidiary issue of physical presence 3) the grandfathering provision in Section 23 of the UAA, and 4) the requirement that out-of-state CPAs applying for a California license must get a practice privilege in order to practice while the licensure application is pending.

The CPC then returned to considering substantial equivalency. Ms. Crocker indicated that she believed it would be logical to permit practice privilege for out-of-state licensees who meet the Board's requirements under either of the two licensure options (Section 5092 or Section 5093). Ms. Sigmann agreed and added that CredentialNet could review either set of qualifications.

Ms. Wong suggested that it would be simpler to permit anyone with a current, valid license and no disqualifying conditions to qualify for practice privilege. Ms. Hillebrand indicated she believed that would open the door too wide and that to her it was fundamentally different to say that those who meet the Board's qualifications for licensure also qualify for practice privilege, than to say another state's minimum requirements for licensure are sufficient. Ms. Crocker asked if permitting those who meet the requirements of Section 5092 to qualify for practice privilege would resolve the problems encountered by out-of-state CPAs who are currently unable to qualify for

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DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY

FINAL

MINUTES OF THE
February 23, 2006
BOARD MEETING

California Board of Accountancy Office
2000 Evergreen Street, Suite 250
Sacramento, CA 95815
Telephone: (916) 561-1718
Facsimile: (916) 263-3674

I. Call to Order.

President Ronald Blanc called the meeting to order at 10:00 a.m. on Thursday, February 23, 2006, at the California Board of Accountancy Office in Sacramento and the meeting adjourned at 12:36 p.m.

Board Members	February 23, 2006
Ronald Blanc, President	10:00 a.m. to 12:36 p.m.
David Swartz, Vice President	10:00 a.m. to 12:36 p.m.
Ruben Davila, Secretary-Treasurer	10:00 a.m. to 12:36 p.m.
Richard Charney	Absent
Donald Driftmier	10:00 a.m. to 12:36 p.m.
Sally Flowers	10:00 a.m. to 12:36 p.m.
Sara Heintz	10:00 a.m. to 12:36 p.m.
Gail Hillebrand	10:00 a.m. to 12:36 p.m.
Thomas Iino	10:00 a.m. to 12:36 p.m.
Clifton Johnson	Absent
Bill MacAloney	10:00 a.m. to 12:36 p.m.
Olga Martinez	10:00 a.m. to 12:36 p.m.
Renata M. Sos	10:00 a.m. to 12:36 p.m.
Stuart Waldman	10:00 a.m. to 12:36 p.m.

indicated that in order to resolve the additional inadvertent barriers created by practice privilege, the CPC wanted to recreate a limited version of temporary and incidental practice on a temporary basis to provide the Board with the time and the opportunity to address the serious and difficult issues related to the definition of the practice of public accountancy in California before adopting a permanent solution.

Ms. Hillebrand indicated that the Board was in a difficult position because one of the benefits of practice privilege as described by those who advocated for it meant the elimination of temporary and incidental practice allowing the Board to know who was in California practicing.

Ms. Sos believed that it was imperative to communicate to everyone that the limited and very clearly defined restoration of temporary and incidental practice was temporary and solely for the purpose of giving the Board time to resolve some very serious issues in the application of Practice Privilege.

Ms. Hillebrand reported that the CPC recommended that the Board approve the following language for B&P Code Section 5050.

"(a) Except as provided in subdivisions (b) and (c) of this section, subdivision (a) of Section 5054, and Section 5096.12, no person shall engage in the practice of public accountancy in this state unless the person is the holder of a valid permit to practice public accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096).
(b) Nothing in this chapter shall prohibit a certified public accountant, a public accountant, or public accounting firm lawfully practicing in another state from temporarily practicing in this state incident to practice in another state provided that the individual or firm does not solicit California clients and does not assert or imply that the individual or firm is licensed or registered to practice public accountancy in California. This subdivision shall become inoperative on January 1, 2011, and as of that date is repealed.
(c) Nothing in this chapter shall prohibit a person who holds a valid and current license, registration, certificate, permit or other authority to practice public accountancy from a foreign country, and lawfully practicing therein, from temporarily engaging in the practice of public accountancy in this state incident to an engagement in that country provided that:
(1) The temporary practice is regulated by the foreign country and is performed under accounting or auditing standards of that country.
(2) The person does not hold himself or herself out as being the

State of California
Department of Consumer Affairs

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

Memorandum

CPC Agenda Item III
September 14, 2006

Board Agenda Item IX.C.4
September 14-15, 2006

To : CPC Members
Board Members

Date: September 5, 2006
Telephone : (916) 561-1788
Facsimile : (916) 263-3674
E-mail: awong@cba.ca.gov

From : Aronna Wong
Legislation/Regulations Coordinator

Subject : Background Information – Discussion Related to Defining Temporary/Incidental Practice – Laws in Other States

Attached as background information for your discussion related to defining temporary/incidental practice are excerpts of laws from the following states: Arizona (Attachment 1), Idaho (Attachment 2), Minnesota (Attachment 3), Missouri (Attachment 4), and Washington (Attachment 5). This is intended to be illustrative rather than comprehensive.

Attachments

(i) possesses qualifications that are considered to be substantially equivalent to the requirement for licensure as a certified public accountant in this state.

(ii) is in good standing in each state in which the applicant holds a license or certificate.

(c) designate an address in this state for the service of process.

(d) pay an application fee in an amount prescribed pursuant to section 32-729, subsection b and section 32-730, subsection A.

B. The privileges extended under this section permit the individual to practice as a certified public accountant in this state for not more than twelve consecutive months. On written application, the board in its discretion may extend the certificate for an additional six months. Each application for extension must include an application fee in an amount prescribed pursuant to section 32-729, subsection B.

C. As a condition of exercising the privileges provided by this section, a licensee or registrant of another state who exercises the privileges provided by this section agrees and consents, as a registrant for purposes of limited reciprocity, to:

1. Comply with this chapter and rules adopted pursuant to this chapter.

2. The personal and subject matter jurisdiction and disciplinary authority of the board.

3. Accept service of process in any action or proceeding by the board at the address designated in the application for limited reciprocity under this section.

D. Persons who hold valid certificates or licenses as certified public accountants issued by other states or foreign countries, whose principal places of business are not in this state, may practice and hold themselves out as certified public accountants in this state for a period of not more than sixty calendar days in a calendar year without complying with the limited reciprocity requirements of this section if either:

1. The person is acting in the capacity of a partner, director, member or employee of a firm that is registered to practice public accounting in this state pursuant to section 32-731 or 32-732.

2. The person notifies the person's client in this state that the person is not subject to the regulatory jurisdiction of the board and the client acknowledges receiving the notice in writing.

3. The person is sponsored by an individual or firm that is licensed or registered to practice public accounting in this state and the sponsor agrees in writing to be liable for any damages caused by, resulting from or attributable to the sponsored person's acts or omissions while the person is providing any manner of accounting services, including tax services, in this state.

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ctice Privileges for Out-of-State CPA's

If you are a CPA whose principal place of business is not in Idaho, and you provide professional services for Idaho clients (except as exempted by Rule 303.04 below) during more than 10 days per calendar year, you must follow Idaho's requirements for obtaining Practice Privileges.

An application for Practice Privileges must be submitted to the Board within 15 days of accepting an engagement or an assignment to render professional services to Idaho businesses or residents, or offering to render professional services through direct solicitation, or marketing targeted to Idaho businesses or residents, whether or not you physically enter Idaho.

If you meet all of the above criteria, but perform professional services for Idaho clients during 10 days or less in a calendar year, Practice Privileges are not required (see Rule 303.04 f below).

Any part of a day you use to perform professional services for Idaho clients constitutes one of the ten days. This applies whether or not you physically enter the state of Idaho .

Tax preparation as a CPA is included as a professional service.

The annual fee for Practice

Attachment 2

through direct solicitation or marketing targeted to persons in this state, whether or not the qualified individual physically enters this state;

c. *The qualified individual shall accept responsibility for compliance with the Idaho Accountancy Act and these rules;*

d. *Notice shall include a statement from the qualified individual agreeing to notify the Board and submit a reciprocity license application if the individual moves his principal place of business to this state; and*

e. *Notice must be accompanied by the fee prescribed in Rule 701.*

03. Internet Disclosures*. An individual entering into an engagement to provide professional services via a web site, pursuant to practice privileges granted by Idaho, shall disclose, via their web site, their principle state of licensure, license number, and address. A firm offering or rendering professional services to Idaho businesses or residents via a web site shall provide, in the web site's homepage, a means for regulators and the public to contact a responsible licensee in charge at the firm regarding complaints, questions, or regulatory compliance.*

04. Exclusion*. Non-resident individuals shall not be deemed to have entered this state for purposes of Section 54-227, Idaho Code and notice is not required if the individual's contact with this state is limited to any of the following activities:*

a. *Teaching either a college or continuing professional education course;*

b. *Delivering a lecture;*

c. *Moderating a panel discussion;*

d. *Rendering professional services to the individual's employers or to persons employed by the individual's employer, including affiliated, parent, or subsidiary entities, provided such services are not rendered for the employer's clients;*

e. *Performing peer reviews for a qualified administering organization;*

f. *Providing professional services during no more than ten (10) days cumulatively in any calendar year by either accepting an engagement or an assignment to render Professional Services to persons in this state, or offering to render Professional Services through direct solicitation or marketing targeted to persons in this state, whether or not the qualified individual physically enters this*

Attachment 3

Minnesota Rules, Table of Chapters

Table of contents for Chapter 1105

1105.7900 SUBSTANTIAL EQUIVALENCY.

A. In accordance with Minnesota Statutes, section 326A.04, subdivision 3, paragraph (b), an individual rendering professional services in this state whose principal place of business will be in this state is required to have a certificate issued under Minnesota Statutes, section 326A.04.

B. In accordance with Minnesota Statutes, section 326A.14, subdivision 1, an individual rendering professional services in this state whose principal place of business is not in this state is required to notify the board as specified in this part.

C. Individuals seeking practice privileges under Minnesota Statutes, section 326A.14, shall complete an application in the form provided by the board and pay the fee required by part 1105.0600. The practice privilege granted shall expire one year after it is effective or shall immediately expire if the certificate or license under which the privilege was granted is no longer "valid" as defined in part 1105.6550.

D. The application must be received by the board within 15 days after the individual knowingly becomes subject to the laws of this state by:

(1) accepting an engagement or assignment to render professional services in this state; or

(2) rendering professional services in this state.

E. Practice privileges of individuals who have a certificate or license, for which the holder of the certificate has met the CPE requirement of this chapter, are effective as follows:

(1) if the certificate or license is issued by a state which is in substantial equivalence with the act, the practice privilege is effective upon application and payment of the fee; and

(2) if the certificate or license is issued by a state which is determined by the board not to be in substantial equivalence with the act, the practice privilege is effective after the board verifies that the individual's qualifications are substantially equivalent to the act.

F. Notice must be filed with the board within 30 days after an individual changes the individual's principal place of business or within 30 days after the license has been denied, revoked, or suspended in any jurisdiction.

Attachment 4

Missouri Revised Statutes

Chapter 326
Accountants
Section *326.283*

August 28, 2005

Reciprocity for out-of-state accountants--licensee of this state committing act in another state, effect.

326.283. 1. (1) An individual whose principal place of business is not in this state and has a valid designation to practice public accounting from any state which the board has determined by rule to be in substantial equivalence with the licensure requirements of sections 326.250 to 326.331, or if the individual's qualifications are substantially equivalent to the licensure requirements of sections 326.250 to 326.331, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state, provided the individual shall notify the board of his or her intent to engage in the practice of accounting with a client within this state whether in person, by electronic or technological means, or any other manner. The board by rule may require individuals to obtain a license.

(2) Any individual of another state exercising the privilege afforded pursuant to this section consents as a condition of the grant of this privilege to:

(a) The personal and subject matter jurisdiction and disciplinary authority of the board;

(b) Comply with this chapter and the board's rules; and

(c) The appointment of the state board which issued the individual's license as his or her agent upon whom process may be served in any action or proceeding by this board against the individual.

(3) Nothing in this section shall prohibit temporary practice in this state for professional business incidental to a CPA's regular practice outside this state. "Temporary practice" means that practice which is a continuation or extension of an engagement for a client located outside this state, which engagement began outside this state and extends into this state through common ownership, existence of a subsidiary, assets or other operations located within this state.

2. A licensee of this state offering or rendering services or using his or her certified public accountant title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding the provisions of section 326.274 to the contrary, the board may investigate any complaint made by the board of accountancy of

Attachment 5

Board of Accountancy
Washington State

Certificate/License

Practice Privileges

Checklist & Instructions:

* "**Entering the State**" means an individual is practicing public accounting (or otherwise using the title CPA) in the state of Washington and that individual:

1. Spends more than 10% of their total work hours on activities conducted within the state of Washington
2. Maintains an office or workstation in the state of Washington, OR
3. Advertises to provide services within the state of Washington.

If your activity in Washington state is below the level defined as "Entering the State" you do not need to notify the Board. However, unless your firm is a sole proprietorship, you may still be required to obtain a Washington State CPA firm license. (See WAC 4-25-750.)

CPAs intending to enter Washington state are required to notify the Washington Board of Accountancy (See RCW 18.04.350(2), WAC 4-25-756 and WAC 4-25-410). To facilitate the processing of your notification, be sure you fully complete all required forms and submit all required information.

1. **Application**: You must submit a complete *Notification of Intent to Enter* form and the $330.00 fee. Be sure you complete all sections of the *Notification of Intent to Enter* form and sign the affidavit.
2. **Qualification Requirements**: To qualify for practice privileges in Washington state you must:

    a. Be an individual.
    b. Hold a valid license to practice public accounting in another jurisdiction.
    c. Your principal place of business is not in Washington state. Principal place of business means a single fixed location designated by the individual from which the individual directs, controls, and coordinates the majority of his or her business activities. See

Licensing Manager at jennifers@cpaboard.wa.gov.

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