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DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY

FINAL

MINUTES OF THE May 14, 2004 BOARD MEETING

The Sheraton Pasadena Hotel
303 E. Cordova Street
Pasadena, CA 91101
Telephone: (626) 449-4000
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I. Call to Order.

President Ian B. Thomas called the meeting to order at 9:32 a.m. on Friday, May 14, 2004, at the Sheraton Pasadena Hotel in Pasadena and immediately convened into closed session to consider Agenda Items X.A-E. The Board reconvened into open session at 10:20 a.m. The Board broke for lunch at 12:25 p.m. and reconvened at 1:22 p.m. The Board adjourned at 3:52 p.m.

Board Members	May 14, 2004
Ian B. Thomas, President	9:32 a.m. to 3:52 p.m.
Renata Sos, Vice President	9:32 a.m. to 3:52 p.m.
Stuart Waldman, Secretary-Treasurer	9:32 a.m. to 3:52 p.m.
Ronald Blanc	9:32 a.m. to 3:52 p.m.
Richard Charney	9:32 a.m. to 3:52 p.m.
Ruben Davila	10:05 a.m. to 3:52 p.m.
Charles Drott	Absent
Sally A. Flowers	9:32 a.m. to 3:52 p.m.
Gail Hillebrand	9:32 a.m. to 3:52 p.m.
Thomas Iino	9:32 a.m. to 3:52 p.m.
Clifton Johnson	9:32 a.m. to 3:52 p.m.
Olga Martinez	9:32 a.m. to 3:52 p.m.
Wendy S. Perez	9:32 a.m. to 3:52 p.m.

Joseph Tseng	9:32 a.m. to 3:52 p.m.
David Walton	9:32 a.m. to 3:52 p.m.

Staff and Legal Counsel

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

Committee Chairs and Members

Nancy Corrigan, Chair, Qualifications Committee
Felipe Quezada, Vice Chair, Administrative Committee

Other Participants

Tom Chenowith
Julie D'Angelo Fellmeth, Center for Public Interest Law (CPIL)
Mike Duffey, Ernst & Young LLP
Del Exeter, Society of California Accountants (SCA)
Bill Gage, Consultant, Senate Business & Professions Committee
Katy Gould, Society of California Accountants (SCA)
David Link, Consultant, Senate Business & Professions Committee
Richard Robinson, Big 4 Accounting Firms
Hal Schultz, California Society of Certified Public Accountants (CalCPA)
Jeannie Tindel, California Society of Certified Public Accountants (CalCPA)

II. Board Minutes.

A. Draft Board Minutes of the February 26-27, 2004, Board Meeting.

The draft minutes of the February 26-27, 2004, Board meeting were adopted on the Consent Agenda. (See Agenda Item XI.B.)

III. Report of the President.

Mr. Thomas introduced and welcomed former Board member, Mr. Navid Sharafatian.

A. Report on the March 9, 2004, Outsourcing Hearing.

Appropriations Committee in the Suspense File, and the Legislative Committee recommends the Board continue to watch this bill.

It was moved by Dr. Charney, seconded by Ms. Martinez, and unanimously carried to adopt a WATCH position on this bill.

f. SB 1451 Figueroa – Privacy Guarantees: Contracts.

Mr. Waldman reported that SB 1451 by Senator Figueroa also has to do with privacy protection and provides for disclosure to customers if their personal information will be processed in locations outside the U.S. Mr. Waldman indicated that this bill is awaiting a vote on the Senate floor, and the Legislative Committee recommends that the Board watch this bill and direct Mr. Granen to provide technical or drafting assistance if needed.

It was moved by Mr. Blanc, seconded by Dr. Charney, and unanimously carried to adopt a WATCH position on this bill.

g. SB 1543 Figueroa – California Board of Accountancy.

Mr. Waldman reported that SB 1543 by Senator Figueroa is the Board's Sunset Bill, and our UAA proposal and other proposed statutory revisions will be amended into it. The hearing before the Sunset Review Committee is scheduled for June 1, 2004. Mr. Waldman noted that at that hearing, DCA and legislative committee staff will be making recommendations related to this Board. Draft statutory changes will be in print by June 15, 2004. Mr. Waldman noted that there will also be a hearing before the Assembly Business and Professions Committee on June 22, 2004.

h. SB 1728 Aanestad – Private Property: State Agency Access.

Mr. Waldman reported that SB 1728 is on the agenda, but it has been amended and no longer relates to this Board.

4. Update on Regulations.

(See Attachment 4.)

a. Approval of Revised Amendments to Sections 12 and 12.5 of the Board's Regulations Related to Private Industry Experience.

changes be pursued at this time. These reasons are articulated in the SOX Cascade Task Force Report and Recommendations. **(See Attachment 5.)**

Mr. Thomas thanked Mr. Tseng and his Task Force for all the work it had accomplished.

a. Issues Related to Auditors Reporting to Audit Committees.

b. Non-Audit Services Provided by Auditors to Private Companies.

c. Audit Partner Rotation.

G. Uniform Accountancy Act Task Force (UAA TF).

1. Minutes of the February 26, 2004, UAA Task Force Meeting.

   The minutes of the February 26, 2004, UAA Task Force meeting were adopted on the Consent Agenda. (See Agenda Item XI.B.)

2. Minutes of the April 9, 2004, UAA Task Force Meeting.

   The minutes of the April 9, 2004, UAA Task Force meeting were removed from the Consent Agenda to make the following changes: on page 7, Ms. Sos proposed inserting "public" in place of "petitioner" and also changing "petition" to "petitioner."

   It was moved by Ms. Hillebrand, seconded by Ms. Sos, and unanimously carried to adopt the UAA Task Force minutes with the changes noted above.

3. Report on the April 9, 2004, UAA Task Force Meeting.

   See Agenda Item VIII.G.5.

4. Report on the May 13, 2004, UAA Task Force Meeting.

   See Agenda Item VIII.G.5.

5. Proposed Statutory Language to Implement Substantial Equivalency in California.

   Ms. Sos reported that the original charge of the Task Force was to determine whether, and if so how, to implement a cross border practice process based on the UAA Section 23 model for substantial equivalency. Ms. Sos indicated that there is a proposal before the Board today that is a product of collaboration, cooperation and great commitment on the part of the Task Force members, Ms. Sigmann

and staff, as well as interested parties. Ms. Sos thanked Mr. Granen as the principal drafter of the statutes, Ms. D'Angelo Fellmeth, Mr. Gage, Mr. Duffey, Ms. Tindel, and all the representatives of the professional groups that were involved.

Ms. Sos reported that the Task Force's recommendation is to implement a process for cross border practice that is not based on the UAA. The Task Force voted unanimously to bring to the Board a proposal that was both an improvement over the current state in California related to cross-border practice and also could become a national model.

Ms. Sos reported on the current situation for out-of-state licensees who want to practice in California and what it would look like if this proposal were enacted. This information is articulated in the cover memo for the draft statutes. **(See Attachment 6.)**

Ms. Sos additionally indicated that the Task Force was contemplating an alternative track to individual notification that would be available to firms to provide notice covering multiple employees. She noted that the Task Force unanimously voted to recommend to the Board that it defer the firm notification process indefinitely.

It was moved by Ms. Flowers, seconded by Mr. Walton, and carried to defer work on the firm notification process. Ms. Perez was temporarily absent. (See Attachment 7.)

Ms. Sos noted that there were several minor changes to the statutory language that the Task Force approved yesterday and she proceeded to identify the following changes.

- Section 5096(a)(2) change "had" to "has".
- Section 5096(c), the sentence that begins with "The practice privilege commences…." make subsection (d) and begin the sentence with "Except as otherwise provided by this article or by Board regulation, the practice privilege commences…", and reletter the remaining subsections.
- New subsection (f), add to the end of the first sentence "…unless a shorter period is set by Board regulation."
- New subsection (g)(2)(C), change "tendency" to "pendency".
- New subsection (g)(2)(D), after the semicolon add "or".
- Section 5096.4(c)(2), after semicolon add "and".
- Section 5096.4(c)(3), at the end insert a period instead of a semicolon.
- Section 5096.4(d), delete "that" and capitalize "The".

- Section 5096.4(g), insert at the end of the sentence ", unless a shorter period is set by Board regulation."
- Section 5096.7(b), capitalize "Any" at the beginning of the sentence.
- Section 5096.11, change the date in two areas from "2010" to "2011".
- Section 5088(a), insert after ".... practice privilege" "during the period that the application is pending".
- Add subsection (b) to Section 5088 which states "This section shall become operative on January 1, 2006."
- Section 5134(i), insert a sentence at the end that reads "This subdivision shall become operative on January 1, 2006."

It was moved by Mr. Blanc, seconded by Mr. Johnson, and carried to adopt the language with the amendments noted above. (See Attachment 8.) Ms. Perez was temporarily absent.

Ms. D'Angelo Fellmeth noted that there is a provision in Section 5096.10 that currently makes the entire proposal contingent upon the Board receiving additional staff. The Board currently does not have the staff to implement this program. She indicated that this provision was somewhat unusual, however, the Board needs to be very strong and clear about its intent that this language and this program be contingent upon authorization for more staff. Ms. Sos agreed that it was critical to get additional resources to make this pilot project work.

Mr. Thomas congratulated Ms. Sos on a job well done, and he thanked Mr. Granen and the Task Force members for their hard work. Mr. Granen noted that he and Ms. Sos would be doing a presentation at the NASBA Western Regional Meeting to present these proposed statutes to the western states at the invitation of NASBA. Mr. Granen will be making an additional presentation at Eastern Regional Meeting a week later. Mr. Granen indicated that he was invited, and with Mr. Thomas and Ms. Sos' approval, will attend the NASBA/AICPA UAA Committee meeting to explain to the AICPA the Board's views on the merits of the proposal and to give comments on NASBA's proposed rules. Approval was given.

Ms. Sos indicated that the issue of the definition of the practice of public accountancy in California as it relates to Internet Practice was raised at the Task Force meeting, and its recommendation was that this issue be deferred to EPOC for its review and consideration. Ms. Sos indicated that she believed that the AC could do some preliminary background work in preparation for the EPOC meeting.

It was moved by Ms. Perez, seconded by Ms. Sos, and unanimously carried to defer to EPOC the definition of the practice of public accountancy in California as it relates to Internet Practice. The motion included assigning the AC to do the background work prior to the EPOC meeting.

Ms. Sos reported that the statute for cross-border practice calls for an implementation date of January 1, 2006, which is very aggressive given what needs to be done. Ms. Sos proposed leaving the Task Force in place to begin the process of drafting regulations.

It was moved by Ms. Flowers, seconded by Dr. Charney, and carried to have the Task Force remain in place and begin drafting implementing regulations. Ms. Perez was temporarily absent.

IX. Recommendations of CPA Qualifications Committee.

A. Appeals.

1. Personal / Written Appearances – None.

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

A. Daniel J. Leonard – Stipulation.

The Stipulation in the matter of the Accusation filed against Daniel J. Leonard was adopted.

B. Andrew Leo Lopez – Proposed Decision.

The Proposed Decision in the matter of the Accusation filed against Andrew Leo Lopez was not adopted.

C. Samuel S. Sanchez – Default Decision.

The Default Decision in the matter of the Accusation filed against Samuel S. Sanchez was adopted.

D. Martin Rosenthal – Decision After Non-Adoption of Proposed Decision.

The Decision after Non-Adoption of the Proposed Decision in the matter of the Accusation filed against Martin Rosenthal was adopted.

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Board Agenda Item VIII.G.1
May 14, 2004

UAA TASK FORCE

MINUTES OF THE MEETING

February 26, 2004
The Westin St. Francis
335 Powell Street
San Francisco, CA 94102

CALL TO ORDER

Renata Sos, Chair, called the meeting of the UAA (Uniform Accountancy Act) Task Force to order at 1:10 p.m. 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.

Ms. Sos introduced the Task Force members. She indicated that Task Force member, David Walton, would not be attending the meeting and that Ian Thomas, Board President, was the newest member of the Task Force.

Present:
Renata Sos, Chair
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
Carol Sigmann, Executive Officer

Other Participants
Bruce Allen, California Society of Certified Public Accountants
Tom Chenowith

Nancy Corrigan, Chair, Qualifications Committee
Mike Duffey, Ernst and Young LLP
Julie D'Angelo Fellmeth, Center for Public Interest Law
Art Kroeger, Society of California Accountants
Ann Nelson, California Society of Accounting and Tax Professionals
Richard Robinson, Robinson & Associates
Jeannie Tindel, California Society of Certified Public Accountants

Board Members Observing
Ronald Blanc
Richard Charney
Rubin Davila
Olga Martinez
Wendy Perez
Joseph Tseng

Ms. Sos provided a brief review of the Task Force's goals and decisions for the benefit of those who were not present at previous meetings. She reported that the Task Force was charged with evaluating whether and how "substantial equivalency" could be implemented in California consistent with the Board's consumer protection mission. Under substantial equivalency, as outlined in Section 23 of the UAA, there would be uniform standards, and if met, the license in the home state would serve as a proxy for a license in this state.

Ms. Sos added that this is an important issue today because the Sarbanes-Oxley Act (SOX) mandates audit partner rotation every five years, and the large firms are gearing up now to implement this new federal law. The concept of substantial equivalency as outlined in Section 23 of the UAA would facilitate compliance with both state and federal requirements and provide enhanced protection for consumers as well.

Ms. Sos noted that small and mid-sized firms also will benefit from substantial equivalency. A U.S. General Accounting Office (GAO) study found that it is difficult for small and mid-size firms to compete with larger firms in part because of the difficulty in dealing with the varied requirements of regulatory boards in different states.

Ms. Sos further noted that substantial equivalency would also improve California's laws. Current law allows out-of-state CPAs to come into California and practice without obtaining a California license, provided the practice is temporary and incidental. It leaves it to the practitioner to define what "temporary" or "incidental" is. Since no notification is required, it is difficult for this Board to appropriately exert its regulatory authority over these practitioners.

Ms. Sos concluded her introductory remarks by noting that the Task Force's proposal contains two innovations that are not part of the UAA's concept of substantial equivalency. One of the innovations is the concept of firm notification under which a firm could file one blanket notification as part of its biennial renewal. This firm

notification would serve in lieu of individual notifications from each of the firm's employees. One benefit of this approach is that it would reduce the workload for Board staff. Another innovative aspect of the Task Force's proposal relates to the suspension of the practice privilege. Under the proposal, the Board would be able to administratively suspend practice privileges without a hearing should a problem occur. The Board would then hold the hearing after the fact. This would enhance the consumer protection provided by this proposal.

Ms. Sos added that other states may use this proposal as a model. Mr. Granen agreed and indicated he believed the National Association of State Boards of Accountancy (NASBA) is looking to this Board to develop a new national model.

Ms. Sos then reviewed outstanding issues. She noted that the following issues were discussed but not acted upon by the Task Force: attest experience requirements, whether principal place of business should be defined, whether there should be a statutory provision related to temporary practice (or perhaps a statutory authorization to adopt a regulation), Internet practice, the reporting of civil judgments, credit card payment versus payment by check, exceptions from the notification process (for example to serve as an expert witness), and the "four of ten" rule. She added that a few issues were identified, but not discussed by the Task Force. These issues include fees for firm notification, enforcement and licensing resources, administrative requirements, and education and outreach plans. It was anticipated that many of these issues would be addressed during the course of the meeting.

I. Minutes of the January 26, 2004, Meeting.

It was moved by Ms. Hillebrand, seconded by Mr. Schultz and unanimously carried to approve the minutes of the January 26, 2004, meeting.

II. Report on Substantial Equivalency Discussions at NASBA's Executive Director/Legal Counsel Meeting.

This agenda item was not discussed.

III. Firm Notification Process
   A. Report of Sub-Task Force.
   B. Revised Proposal for Blanket Notification by Firms.
   C. Proposal for Fee structure.

Ms. Sos reported that a Sub-Task Force consisting of Michael Duffey, Gail Hillebrand, Jeannie Tindel, and herself met by conference call to discuss fee options. They also discussed the firm notification form. The form in the packet (Attachment 1) reflects the revisions from the Sub-Task Force as well as input provided by Michael Granen.

Ms. Sos then requested input from meeting participants regarding the form. Participants proposed minor modifications to the form to be incorporated into a revised

form for discussion at the next meeting. Ms. Hillebrand indicated that it was important that the individual notification form and the firm notification form be consistent.

The discussion then focused on the proposed fee structure. Ms. Sos noted that there were two options for fees. Option A provided for a $200 fee with the notification, plus a $100 fee to be paid at the end of the period for each employee who practiced in California pursuant to the notification. Option B provided for a fixed amount based upon the number of owners or employees in the firm. The fees under Option B would be higher initially than the fees under Option A, but there would be no end-of-the-period adjustment.

Ms. Hillebrand noted that the reason for permitting firm notification is to give the firm the convenience of not having to pay a fee for each individual employee coming to California. In that context, the higher fee under Option B appears appropriate. During the discussion Mr. Duffey commented that his firm estimated that there would be approximately 150 employees entering the state under the blanket notification. He indicated that Option B would be far less burdensome and would require considerably less record keeping than Option A.

During the discussion it was suggested that the annual fees for Option B could range between $500 for firms with one to twenty-five owners up to $15,000 for firms with 501 or more owners. Ms. Sos noted that it was important for the statute to give the Board the flexibility to establish the fee by regulation. She suggested that the Board could collect data from the firms regarding the number of licensees entering the state and revise the firm notification fee accordingly. **After discussion, it was moved by Ms. Sos, seconded by Ms. Hillebrand, and unanimously carried to go forward with the concept embodied in Option B.**

During the discussion, it was noted that the Board had not formally approved the concept of firm notification. **It was then moved by Mr. Iino, seconded by Ms. Hillebrand, and unanimously carried to seek the approval of the Board to go forward and develop the firm notification process.**

IV. Individual Notification Process.

A. Revised Draft From for Individual Notification.
   1. Should Principal Place of Business be defined?
   2. Circumstances Under Which License Should be Required.
      a. Internet Practice.
      b. Other.
   3. Other Bases for Ineligibility for Privilege to Practice.

The Task Force then reviewed the individual notification (Attachment 2) and recommended minor revisions to be incorporated into a revised form. During the discussion of the section "Qualification Requirements," the Task Force considered what should be required of CPAs entering under practice privileges so that they are authorized to sign attest reports. Mr. Schultz commented that the 500 hours required by

the Board is not sufficient experience to make a competent auditor and that most signers of attest reports have much more extensive audit experience. He also noted that the UAA and most other states do not require attest experience. Instead, the UAA relies on peer review to help ensure competency when providing attest services.

Ms. D'Angelo Fellmeth commented that many current Board members were not on the Board in 2001 when the UAA was discussed previously. She noted that the UAA does not require exposure to attest work for licensure. In 2001, the California Legislature revised the Accountancy Act to eliminate the attest experience requirement for licensure, but added a provision requiring attest experience in order to sign attest reports. In California there is also a requirement for accounting and auditing continuing education, and the Board is working on a requirement for fraud continuing education. She further indicated if someone from another state could come here and sign attest reports without meeting any of these requirements, it would not be not fair to California licensees and would undermine the Board's standards.

Ms. D'Angelo Fellmeth also expressed concern that out-of-state CPAs would be allowed to self-certify that they meet the Board's requirements. She noted that while other boards have reciprocal licenses, none allow self-certification, and none allow the employer to vouch for an applicant's qualifications. She also expressed concern regarding the grandfathering permitted under substantial equivalency. She noted that most states only have three to five years of experience with the UAA requirements and that people licensed before that time would be grandfathered in even though they may not meet the UAA's licensure requirements. She added that the Veterinary Medical Board had a similar issue. They created a temporary license to allow veterinarians from other states to come in and work in pet stores. These veterinarians had to be supervised by California licensees.

In response, Ms. Perez stated that she wanted to clarify the confusion that seemed to exist between the process for a "reciprocal license" and that for "incidental practice." She indicated that a reciprocal license, which may be granted, for example, to a licensee from another state who is now moving residence into California, involves a robust licensing process as defined by statute and regulation. However, under the Board's current "incidental practice" statute, nonresidents may practice public accountancy in California with absolutely no obligation to notify the Board of their presence. Ms. Perez added that the essence of the practice privilege concept being discussed by the Task Force is to require notification from these people where currently no notification is required. She further stated that the proposed notification process will significantly improve consumer protection and the authority of the Board to impose discipline.

Mr. Duffey commented that the UAA was an initiative of NASBA five years ago. Now the new federal requirements make it more important than ever to adopt substantial equivalency under the UAA. It is a way of permitting mobility, while at the same time maintaining public protection.

After discussion it was moved by Ms. Hillebrand, seconded by Mr. Iino, and unanimously carried to require that an out-of-state CPA entering under a practice privilege meet the same standards as a California licensee in order to sign an attest report. This would include the experience requirement for licensure to qualify for attest and the continuing education requirements. Mr. Schultz added that, with regard to continuing education, the American Institute of Certified Public Accountants (AICPA) requires its members to complete 24 hours of accounting and auditing continuing education, so many out-of-state CPAs are already in compliance with the Board's accounting and auditing continuing education requirement.

Ms. Sos then addressed other items on the draft individual notification form. She noted that in the "Additional Information" section, an affirmative response to items 1 through 4 would mean the Board would review additional information before granting the practice privilege. Item 5 would only require a report to the Board. She noted that the Task Force had requested a staff recommendation regarding item 5. Ms. Crocker reported that the way the "Additional Information" section was presently worded was acceptable to staff.

At the conclusion of the discussion regarding the form, it was moved by Mr. Schultz, seconded by Mr. Iino, and unanimously carried to proceed with the revisions to the form and with the drafting of statutory language which would include firm notification, the repeal of incidental practice, and an authorization for the Board to adopt a temporary practice regulation.

Ms. Sos then noted that the issue of payment by credit card remained open. She added that, with firm notification, the Board would receive fewer notifications to process so that payment by check within 30 days of notification appeared a viable option.

V. Report on Drafting of Statutes and Regulations.

Mr. Granen reported he was working on drafting statutory language. Ms. Sigmann indicated that she had been in communication with Bill Gage, staff for the Senate Business and Professions Committee, and it is no longer necessary to have the statutory language ready for the sunset review hearing in March. Ms. Sigmann noted that the time line had been extended and it is now anticipated that the language could be amended into the sunset review bill in the Assembly.

VI. Development of Recommendations to the Board.

Ms. Sigmann reported on the time line for completing the Task Force's work. She indicated that the draft statutes are scheduled to be mailed out to all interested parties by March 17, 2004, in advance of the next Task Force meeting on April 9, 2004. She added that it is anticipated that the revised language and forms, along with the Task Force's policy recommendations, would be mailed out to all interested parties by April 15, 2004. The Task Force would then have a final opportunity to discuss and revise the

language at its meeting of May 13, 2004, the day before the recommendations are presented to the Board.

VII. Comments from Members of the Public

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

VIII. Agenda Items for Next Meeting.

It was the consensus of the Task Force that a discussion of the draft statutory language would be the primary focus of the next meeting. Ms. Sos also noted that the Task Force had not made a decision regarding the definition of principal place of business and that issues related to internet practice had not been resolved. Ms. Hillebrand added that there was a need to consider principal source of business as well. **It was then moved by Ms. Hillebrand, seconded by Mr. Schultz, and unanimously carried to leave principal place of business undefined and to plan to discuss it at the next meeting.** Consideration of Internet practice was also scheduled for discussion at the next meeting. The next meeting was scheduled for April 9, 2004, at the Board office in Sacramento.

There being no further business the meeting was adjourned at 4:15 p.m.

State of California Department of Consumer

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Attachment 1

REGISTERED FIRM NOTIFICATION PURSUANT TO SECTION [ ] OF THE CALIFORNIA ACCOUNTANCY ACT

[NAME OF FIRM] represents that all conditions for eligibility under blanket notification pursuant to Section [ ] of the California Accountancy Act are satisfied with respect to each owner or employee covered by this notification at all times that each owner or employee practices public accountancy in California pursuant to Section [ ] during the effective period of this notice:

(1) The owner or employee does not have his or her principal place of business in California.

(2) The owner or employee is not otherwise required to hold a California license to practice public accountancy.

(3) The owner or employee holds a valid license from a state or other U.S. jurisdiction and (a) that state or jurisdiction has been deemed by the California Board of Accountancy (CBA) to possess licensing requirements that are substantially equivalent to the requirements of the Uniform Accountancy Act; or (b) the individual possesses qualifications which have been determined by CBA to be substantially equivalent.

(4) The owner or employee will not sign a report on an attest engagement in California unless he or she is authorized to perform attest services in the state upon which the determination of substantial equivalency is based.

(5) For each owner or employee, the firm will maintain records sufficient to show the name, office location, and state(s) and/or jurisdictions of licensure – including the basis for substantial equivalency – as well as where in California and when services were provided pursuant to this notification. Upon request by the CBA to the firm, the firm will disclose within 10 days these records to the CBA.

(6) The owner or employee shall abide by the provisions of the California Accountancy Act and regulations thereunder, including but not limited to the firm's and individual's reporting obligations. Any violation of this obligation is the responsibility of both the individual(s) and the firm. The firm and each owner and employee covered by this notification subject themselves to the personal and subject matter jurisdiction of the CBA for purposes of disciplinary or other proceedings before the Board concerning any activities pursuant to this notification.

(7) Absent prior approval of the CBA, public accountancy services shall not be provided in California under Section [ ] of the California Accountancy Act through any owner or employee that:

(a) has been convicted of a felony;

(b) has been convicted of a crime related to the qualifications, functions or duties of a certified public accountant, or involving theft, embezzlement, misappropriation of funds or property, breach of fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent or materially misleading financial statements, reports or information;

(c) has had a professional license, permit or authority to practice surrendered, denied, suspended, revoked or put on probationary status or has been fined by a profession licensing entity; or

(d) has had a judgment entered against him or her, or against the firm for conduct by him or her, for:

(i) dishonesty, fraud, gross negligence or negligence;

(ii) breach of fiduciary responsibility;

(iii) false, fraudulent or materially misleading financial statements;

(iv) embezzlement, theft, or misappropriation of funds; or

(v) any other actionable conduct in the practice of public accountancy.

(8) The firm shall not provide public accountancy services in California through any owner or employee under Section [ ] if so ordered, without prior notice or hearing, by the California Board of Accountancy or its executive officer.

(9) The firm will pay, in addition to the registration fee required under section ___, a fee of:

OPTION A:

$[200] upon submission of this notification. In addition, upon renewal or expiration of this notification (whichever comes first), the firm will pay $100 for each employee or owner who practiced public accountancy in California pursuant to this notification.

OPTION B:

(1) _____ if the firm has 1-25 owners or employees who are licensed to practice public accountancy in California or any other jurisdiction;

(2) _____ if the firm has 26-50 owners or employees who are licensed to practice public accountancy in California or any other jurisdiction; or

(3) _____ if the firm has 51-100 owners or employees who are licensed to practice public accountancy in California or any other jurisdiction.

(4) _____ if the firm has 101-500 owners or employees who are licensed to practice public accountancy in California or any other jurisdiction.

(5) _____ if the firm has 501 or more owners or employees who are licensed to practice public accountancy in California or any other jurisdiction.

This notification expires on the date of the firm's next registration with the State of California under section [registration statute].
I, _____, certify under penalty or perjury under the laws of the State of California that the foregoing information is true and correct and that I have the consent and authorization of the firm and the owners and employees covered under this notification to execute this document.

Signature:_____ Title: _____ Date: _____

The firm designates the following individual or department as the contact for the CBA in the event that the CBA wishes to obtain information regarding this notification:

Name or department: _____
E-mail address: _____
Phone number:_____
Fax number: _____

DRAFT

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 2

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

Original Notification ☐ **Revised Notification** ☐ **Renewal of the Notification** ☐

Name: _____

Prior Names: _____

Firm Name: _____

Address Of Principal Place Of Business: _____

Telephone Number (business hours): _____

Fax Number (business hours): _____

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

Date Of Birth: _____

Social Security Number: _____

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

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

1. I am an individual.

2. My principal place of business is not in California.

3. I have a valid license to practice public accounting in the state/jurisdiction of my principal place of business.

   State/Jurisdiction: _____ License Number: _____ Date Issued: _____

4. In connection with this privilege to practice public accounting, I understand that I may sign a report on an attest engagement under this privilege to practice only if I am authorized to perform attest services in the state of my principal place of business.

5. The state/jurisdiction identified in item 4 above is deemed substantially equivalent by the California Board of Accountancy (see Appendix 1 for list of substantially

equivalent states) **OR** my individual qualifications have been determined by NASBA to be substantially equivalent (please provide NASBA file no. _____.)

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 (which can be accessed at *http://www.dca.ca.gov/cba/regs.htm*).

7. I consent to the personal and subject matter jurisdiction of the California Board of the Accountancy 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 California Board of Accountancy relating to my California practice privilege.

9. I consent to the authority of the California Board of Accountancy to verify the accuracy and truthfulness of the information provided in this notification. I consent to the release of all information relevant to the California Board of Accountancy'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 sending this form for submission to the California Board of Accountancy at or before the time work begins under this privilege to practice public accounting.

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

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

ADDITIONAL INFORMATION:

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

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

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

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

☐ 1. I have been convicted of (a) a felony; (b) a crime related to the qualifications, functions, or duties of a public certified accountant; OR (c) a crime involving theft, embezzlement, misappropriation of funds or property, breach of fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports or information.

☐ 2. I have had a license, registration, permit or authority to practice surrendered, denied, suspended, revoked, put on probationary status or otherwise limited.

☐ 3. Since January 1, 2003, I have received: (a) notice of a formal investigation of me by a U.S. jurisdiction or federal agency, including the SEC or PCAOB or any of their designees; OR (b) notice from the SEC requesting a Wells Submission.

☐ 4. Since January 1, 2003, I have had judgment entered against me in a civil action alleging one or more of the following: (a) dishonesty, fraud, gross negligence or negligence; (b) breach of fiduciary responsibility; (c) false, fraudulent or materially misleading financial statements; (d) embezzlement, theft, or misappropriation of funds; OR (e) any other actionable conduct in the practice of public accountancy.

Please check if the item below applies. If so, please provide additional information as requested in Attachment X.

☐ 5. Since January 1, 2003, I have had: (a) a restatement of a financial statement and related disclosures by a client audited by me; OR (b) a civil action settlement or arbitration award against me relating to the practice of public accountancy where the award is $30,000 or greater and where I was not insured for the full amount.

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

Signature: _____ Date: _____

Your privilege to practice commences with the filing of your completed notification, including payment of your fee. If your payment is not received within 30 days of this notification, your privilege to practice is suspended pending the Board's receipt of payment.

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

State of California Department of
sumer
fairs

CALIFORNIA BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3832
TELEPHONE: (916) 263-3680
FACSIMILE: (916) 263-3675
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ATTACHMENT X

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

_____

_____

_____

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

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

3. If you checked item 5a, please also submit a copy of the original and restated financial statement or the portions of the original and amended Form 990 or 990PF related to the reissued financial statement.

4. If you checked item 5b, please provide the following:

Total Amount Paid by Insurer $ _____ Date Paid _____
Total Amount Paid by Licensee $ _____ Date Paid _____

CALIFORNIA BOARD OF ACCOUNTANCY
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UAA TF Agenda Item I
May 13, 2004

Board Agenda Item VIII.G.2
May 14, 2004

UAA TASK FORCE
MINUTES OF THE MEETING

DRAFT

April 9, 2004
California Board of Accountancy Office
2000 Evergreen Street, Suite 250
Sacramento, CA 95815

CALL TO ORDER

Renata Sos, Chair, called the meeting of the UAA (Uniform Accountancy Act) Task Force to order at 9:40 a.m. and welcomed the participants.

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

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

Other Participants
Julie D'Angelo Fellmeth, Center for Public Interest Law
Michael Duffey, Ernst and Young LLP
Wendy Perez, Board Member
Jeannie Tindel, California Society of Certified Public Accountants

I. Minutes of the February 26, 2004, Meeting.

During the discussion, the following modifications to the minutes were suggested: on page 5, first full paragraph, at the beginning of the last sentence insert: "She further indicated..." On page 5, in the last sentence of the first full paragraph, delete "dilute the Board's responsibility" and insert "undermine the Board's standards." On page 5, after the second full paragraph, insert the following paragraph:

> In response, Ms. Perez stated that she wanted to clarify the confusion that seemed to exist between the process for a "reciprocal license" and that for "incidental practice." She indicated that a reciprocal license, which may be granted, for example, to a licensee from another state who is now moving residence into California, involves a robust licensing process as defined by statute and regulation. However, under the Board's current "incidental practice" statute, nonresidents may practice public accountancy in California with absolutely no obligation to notify the Board of their presence. Ms. Perez added that the essence of the practice privilege concept being discussed by the Task Force is to require notification from these people where currently no notification is required. She further stated that the proposed notification process will significantly improve consumer protection and the authority of the Board to impose discipline.

It was moved by Ms. Hillebrand, seconded by Mr. Schultz, and carried to approve the minutes of the February 26, 2004, meeting with the modifications noted above. Ms. Flowers and Mr. Walton abstained.

II. Consideration of Draft Statutory Language.

Ms. Sos indicated that the primary purpose of the meeting was to discuss the draft statutes and to reach agreement, as much as possible, on the language. A secondary purpose was to identify issues to be addressed in regulations. Ms. Sos noted that the draft notification forms, which had served as a useful vehicle for framing the Task Force's discussion, should be put aside pending approval of the statutes. Ms. Sos complimented Mr. Granen on his hard work in preparing the draft language for discussion. She noted that the general approach taken by the Task Force has been to put the general concepts in statute and to leave the details for regulations. She added that the Task Force's work is being followed on the national level. Ms. Sos then called the Task Force's attention to the letter the Board had received from Neal West of Moss Adams LLP objecting to the proposed notification requirement (Attachment 1). Ms. Sos suggested that this comment letter underscores the consumer protection benefits of the Task Force's work.

Mr. Granen distributed a revised version of the draft statutes which he indicated was prepared with input from Mr. Duffey, Ms. Hillebrand, and Ms. Sos (Attachment 2). Ms. Sos suggested that the Task Force discuss each of the draft statutes individually.

Section 5050:

Mr. Granen indicated that the revisions to Section 5050 delete the temporary practice provision and add a reference to practice privileges to permit the holder of a practice privilege to practice public accountancy in this state. **It was moved by Ms. Hillebrand, seconded by Ms. Sos, and unanimously carried to recommend Board approval of the revisions to Section 5050.**

Section 5096 – Practice Privileges:

Ms. Sos explained that proposed Section 5096 contains the qualifications for practice privileges. Ms. D'Angelo Fellmeth expressed concern regarding paragraph (1) of subdivision (a) that states the "four of ten" rule. Mr. Granen explained that the "four of ten" rule is a national model. Mr. Miller indicated that a parallel provision exists in Sections 12 and 12.5 of the Board's regulations. **After discussion, it was the unanimous consensus of the Task Force to insert the words "under a license issued by any state" in paragraph (1) to clarify that the practitioner must hold a certified public accountant license issued by a U.S. jurisdiction.**

Ms. Sos then noted that subdivision (b) gives the Board the authority to designate states as substantially equivalent or to accept individual determinations. Mr. Granen indicated that the revised language would permit the same process for both types of determinations. During the discussion, Ms. Hillebrand observed that the process of adopting regulations is slow and the Board may want a more expedited process. **After discussion it was moved by Ms. Hillebrand, seconded by Mr. Walton, and unanimously carried to delete the words "by regulation" in the first line of subdivision (b) and to retain the language originally distributed to the Task Force for the remainder of that subdivision (without the changes shown in Attachment 2).**

Ms. Sos noted that subdivision (c) contemplates payment of the fee by check. After discussion, no changes to subdivision (c) were proposed.

With regard to subdivision (d), Mr. Duffey commented regarding the proposed revision to paragraph (2). He noted that the policy is that the licensee would be deemed to meet California's requirement when the licensee meets the examination and continuing education requirements in his or her home state. He further indicated that revised paragraph (3) permits licensees to provide services at the client's place of business or residence.

During the discussion, several minor revisions were proposed for enhanced clarity. **It was then moved by Ms. Sos, seconded by Mr. Schultz, and unanimously carried to approve subdivision (d) with the following revisions: the opening provision of subdivision (d) would read "An individual who holds a practice privilege under this Article:...," in paragraph (2) the word "and" would be inserted after "examination" and a semicolon would be added at the end of the paragraph, in**

paragraph (3) a semicolon and the word "and" would be added at the end of the paragraph (3), and in paragraph (4) the word "considered" would be struck and replaced with "deemed."

With regard to subdivision (e), Mr. Granen indicated that an administrative suspension could be issued for any purpose and that subdivision (e) would prevent practice while the practice privilege was in administrative suspension. He added that the five year provision was there so that the practice privilege would remain in existence and could be disciplined. Mr. Newington commented that the five year provision was no longer necessary because Section 5109 permits the Board to discipline an expired or surrendered license.

During the discussion, participants noted that the concept of renewal did not appear to apply to practice privileges since there would be no difference between the renewal and the application process. **It was then moved by Ms. Hillebrand, seconded by Mr. Walton, and unanimously carried to removed the concept of renewal from the notice. To revise subdivision (e) consistent with this policy, it was moved by Ms. Sos, seconded by Ms. Flowers, and unanimously carried to end the subdivision with the word "notice" in the second line and to delete the remaining language.**

Participants then reviewed the language in Section 5109 (Attachment 3) and discussed revising it to apply to practice privileges as well as licenses. **It was then moved by Ms. Sos, seconded by Ms. Hillebrand, and unanimously carried, to approve inserting "or other authority to practice public accountancy" after "license" in Section 5109.**

With regard to subdivision (f), Mr. Granen explained that the purpose of subdivision (f) is to address an instance in which the licensee does not submit the required fee for the practice privilege and commits a violation during the 30 day time period. **It was moved by Ms. Sos, seconded by Mr. Walton, and unanimously carried to approve subdivision (f)**

With regard to subdivision(g), Ms. Sos noted that it provides conditions that would disqualify a licensee from obtaining a practice privilege without the prior approval of the Board. It was the consensus of the Task Force to insert "or the PCAOB" after agency and "specified" before "minor violations" in paragraph (2). Task Force members noted that, although the PCAOB was created by federal law, it is not a federal agency. It was also the consensus of the Task Force to delete paragraph (5) of the original draft which referred to participation in an audit engagement in which the financial statements were subsequently restated. Participants noted that restatements can be issued for a variety of different reasons and that a licensee could be a participant in an audit engagement and not be aware of the restatement.

During the discussion, Ms. Hillebrand expressed concern regarding the phrase "except as otherwise provided in implementing regulations" in the opening paragraph of subdivision (g). Ms. Perez also indicated concern noting it could limit the Board's

authority to regulate. After discussion, it was suggested that the phrase "except as otherwise provided in implementing regulations" be deleted and instead a new paragraph (5) be added which would state "such other conditions as adopted by the Board by regulation." **It was then moved by Ms. Flowers, and seconded by Mr. Schultz to approve subdivision (g) with the revisions noted above.**

Section 5096.1 – Firm Notification:

Mr. Duffey distributed revised language which struck out all of Section 5096.1 except for subdivision (a) as it appears in Attachment 2. He suggested that it would be best to develop the firm notification requirements through the rulemaking process and that individual notification could be utilized until the necessary regulations for firm notification are in place. He indicated he believed that better provisions would be developed through the rulemaking process than through the legislative process

Ms. Hillebrand commented that she would like to see some of the provisions in the original draft included in Section 5096.1. She noted that putting some details in the statute would demonstrate that the Board has been thoughtful about the process, and this may help to get the legislation enacted. Ms. D'Angelo Fellmeth observed that the language Mr. Duffey is suggesting opens the Board up to the criticism that the Board is proposing to delegate away its licensing authority to the firms.

Ms. Perez commented that in the past the Board has provided the Legislature with draft regulations as well as proposed statutes and that this approach might be a way of assuring the Legislature that the Board has been thoughtful. Ms. Crocker noted that because of the time constraints for developing this legislation it would be difficult to also develop regulations at this time.

Ms. Hillebrand commented that there are two issues which should be addressed: a requirement that the firm maintain adequate records to respond to a Board inquiry and a requirement that each individual practicing under the firm notification personally consent to the Board's jurisdiction. During the discussion, Ms. Sos indicated that there needs to be a general statement in the statute to make sure records are maintained, but that detailed recording keeping requirements could better be addressed in regulations. Mr. Duffey expressed concern that the recording keeping requirements not be so extensive that they place a burden on firms and result in the collection of more information than the Board needs.

Ms. D'Angelo Fellmeth commented that she believed the statute should contain more specific requirements than in Mr. Duffey's draft. She added that the firm must be able to demonstrate that employees practicing under practice privileges meet California's requirements. Otherwise, it could appear to be an unlawful delegation of the Board's licensing authority. She further indicated that she also believed the fees charged should be adequate to enable the Board to take appropriate enforcement action.

Ms. Perez commented that she believed that these practitioners were already in California practicing under incidental practice. She noted that the purpose of the notification process was to gain information about these practitioners and bring them under the Board's jurisdiction.

After discussion, it was moved by Ms. Hillebrand, seconded by Ms. Sos, and unanimously carried that there should be a separate subdivision on the maintenance of records and that subdivision should indicate that the firm must maintain records that show the qualifications of the individuals who have practice privileges under the firm notification and the time when the privileges were held. In addition, the subdivision should require the firm to respond to any Board inquiry regarding any individual who holds a practice privilege either individually or under the firm notification and to respond to any Board inquiry with respect to the group as a whole holding practice privileges.

Ms. Hillebrand indicated she was also believed the statute should contain a provision indicating the individual consents to the Board's jurisdiction. Mr. Duffey expressed concern that it could be burdensome to obtain signatures from all of the covered employees. Ms. Hillebrand indicated that a deemed consent might be appropriate and the matter could be addressed in more detail in the regulations. Mr. Duffey suggested that perhaps there should be broader statute that indicates that any person who practices public accountancy in this state is deemed to have consented to the Board's jurisdiction.

After further discussion, it was moved by Ms. Sos, seconded by Ms. Hillebrand, and unanimously carried for the lined-out language in Section 5096.1(d) (as shown in Attachment 2) to become new subdivision (c) of the revised draft statute. This motion also directed Mr. Granen to research whether there is a need for the broader statute on deemed consent suggested by Mr. Duffey.

Ms. Sos then indicated that it may be necessary to rework subdivision (a) of Section 5096.1 to be consistent with the other changes to that section. She indicated that she, Ms. Hillebrand, and Mr. Granen could work together to complete the revisions to Section 5096.1 for the next Task Force meeting.

Ms. Sos then asked Mr. Newington to comment on Section 5096.1. Mr. Newington indicated that subdivision (e), which would require firms to provide the Board with a list of employees practicing under the firm notification, was drafted in response to a concern he raised. The objective was to make the information required for firm notification more consistent with the information required for individual notification. It was also to encourage accountability for those who come in under firm notification. He expressed concern that, without ongoing reporting responsibility, firms may neglect to capture the necessary information. This could make it difficult for the Board to exercise appropriate oversight.

Mr. Newington also indicated that it appeared to be somewhat of a challenge for firms to have knowledge regarding all of the information required by the individual notification form. He sighted as an example a recent petitioner hearing in which the petition, during the time his licensed was revoked, was hired by two large firm. The petitioner reported that these firms did not ask him if his license was revoked. Ms. D'Angelo Fellmeth concurred that this is an area of concern. She suggested that it was possible for a CPA seeking employment at a large firm to leave out whole categories of information about past actions and for this to go undetected. Ms. Perez indicated that this was unlikely to occur because the large firms do extensive background checks on new employees. Ms. Perez suggested that the petitioner described by Mr. Newington probably lost his jobs with the large firms because of information obtained through background checking.

Mr. Duffey commented that the whole premise behind firm notification is that the Board has jurisdiction over the registered firm and this can be leveraged if problems occur. Mr. Newington questioned the extent to which firm discipline would be a practical option in a situation in which a CPA with an extensive criminal history lies to his employer and is later caught by the Board. Ms. D'Angelo Fellmeth also questioned whether holding the firm responsible was a practical option under current circumstances in which large firm discipline is costly and time-consuming.

During the discussion, it was noted that Section 5096.1 provides for random audits and for the firm to provide information to the Board upon request. Ms. D'Angelo Fellmeth objected to placing the onus on Board staff to continually request information. She indicated she believe if a person wants to come to California to practice accountancy, that person can complete a notification form.

Mr. Duffey commented that the individual notification is not burdensome in itself, but if you multiply it by the number of jurisdictions where CPAs practice, the paperwork involved is very extensive. He noted that the profession as a whole is struggling to find a way to operate in the 21st Century and preserve state-based regulation while also permitting mobility. He expressed support for firm notification as a way to address this challenge. Ms. Perez reminded participants of the comments in the Moss Adams letter (Attachment 1) and emphasized that it was important that the notification process not be burdensome.

During the discussion it was noted that one of the reasons firm notification was of interest to the Task Force is that it appeared to be less work for staff since there would not be a need to process numerous notification forms. Ms. Crocker commented that if there is going to be a review process for the information collected by firms, this would also involve workload and that the staffing would be at a higher level than for the review of individual notification forms. She added that there was workload associated with the individual notification process as well and that it would take staff time to develop an interactive on-line notification form and to set up the database.

Ms. Sos concluded that more information is needed regarding the potential reliability of the firm notification process and the ability of a firm to accurately represent that each

employee covered by its firm notification actually meets the Board's requirements. She proposed that the Task Force seek this additional information for consideration at the next meeting. At that meeting the Task Force could also review the revised draft of Section 5096.1. Then the Task Force could make a determination regarding what to recommend to the Board. Ms. Hillebrand and Ms. Flowers concurred that the policy decision should be delayed until the next meeting.

Section 5096.2 – Firm Responsibility for Employee Conduct Under Practice Privileges:

It was the consensus of the Task Force to delay action on Section 5096.2 until resolution is reached regarding Section 5096.1.

Section 5096.3 – Practice Without Notice:

After discussion, it was moved by Ms. Sos, seconded by Ms. Flowers and unanimously carried to approve Section 5096.3 with the following minor revisions: add a semicolon at the end of paragraph (a)(1) and add the word "and" at the end of paragraph (a)(2).

Section 5096.4 – Denial of Practice Privileges:

Ms. Hillebrand noted that subdivision (c) could be deleted as it is covered in Section 5096. **It was moved by Ms. Hillebrand, seconded by Ms. Sos, and unanimously carried to approve Section 5096.4 with the deletion of subdivision (c).**

Section 5096.5 – Discipline of Practice Privileges:

Ms. Sos noted that the phrase "subject to renewal" in subdivision (b) needed to be deleted as the Task Force has decided that practice privileges will not be subject to renewal. She added that the second sentence in that subdivision is also no longer needed. She further indicated that in subdivision (d) the words "a new" should replace "reinstatement of the." **It then was moved by Ms. Sos, seconded by Ms. Hillebrand, and carried to approve Section 5096.5 with the modifications noted above. Ms. Flowers abstained.**

Section 5096.6 – Administrative Suspension:

Ms. Sos indicated that under Section 5096.6 the time period for the practice privilege continues even if the practice privilege is under administrative suspension. It was suggested that the words "a practice privilege or a" should be inserted before the word "license" in subdivision (d) to indicate it was possible to apply for a new practice privilege as well as a license while the current practice privilege was under administrative suspension.

During the discussion of this section, it was suggested that the practice privilege should be automatically suspended if, during the time it is held, any of the disqualifying

conditions listed in Section 5096(g) occurs. Mr. Granen indicated that administrative suspension requires an affirmative act by the Board, but it would be possible to indicate that if a disqualifying condition occurs, the person would no longer be able to practice under practice privilege. This provision could be placed in Section 5096. **It was moved by Ms. Sos, seconded by Ms. Hillebrand, and unanimously carried to approve the revision of Section 5096 as outlined by Mr. Granen.**

During the discussion, Ms. D'Angelo Fellmeth noted that Section 5096.6 sets out a procedure for the suspension of the individual notification. She inquired if there is a provision that sets out a procedure for suspending firm notification if the firm notification provisions are violated.

Ms. Hillebrand indicated there should be a provision that indicates if a violation occurs 1) the firm cannot continue to use the firm notification; 2) any individuals practicing under the firm notification must convert to individual notification; and 3) the Board can direct the firm to remove particular individuals from practicing under the firm notification.

After discussion, it was the consensus of the Task Force to defer action on Section 5096.6 until it could be redrafted to address suspension of the firm notification.

Section 5096.7 – Signing Attest Reports:

Mr. Granen reported that two versions of Section 5096.7 were drafted: one that covered only experience and one that covered both experience and continuing education. He added that the first version covering only experience would be a little more uniform on the national level.

During the discussion, Ms. D'Angelo Fellmeth commented that at the last meeting it was suggested that there should be uniform requirements for everyone who signs attest reports in California. Mr. Granen observed that identical requirements could prevent qualified practitioners from entering the state. Also during the discussion, Ms. D'Angelo Fellmeth noted that there was no requirement that the firm maintain records related to experience or continuing education for employees practicing under practice privileges.

After discussion, it was moved by Ms. Sos, seconded by Mr. Walton, and unanimously carried to approve the first version of Section 5096.7 with the addition of the phrase "and completes any continuing education or other conditions required by the board in implementing regulations" and further to revise Section 5096.1 to require firms to maintain records related to experience and continuing education.

Section 5096.9 – Delegation of Authority to the Executive Officer:

It was moved by Ms. Sos, seconded by Mr. Schultz, and unanimously carried to approve Section 5096.9 with no modifications to the text of the statute. Ms.

D'Angelo Fellmeth suggested this section should be remumbered as Section 5096.8 so that all of the new statutes would be numbered sequentially.

Section 5096.10 – Definitions:

During the discussion, Mr. Walton suggested the addition of language indicating "employee" includes "owners." Also, Ms. Perez expressed concern that the reference to "this Code" may be too broad. Mr. Granen agreed it may to appropriate to narrow the reference to Division 1.5 which relates to applications for licensure.

After discussion, it was the consensus of the Task Force to review the revised language before taking action on Section 5096.10.

Section 5096.11 – Investigative Powers:

Ms. Sos indicated that this section needed to be revised to include the authority to conduct random audits of firms and to collect fingerprints. After discussion, it was the consensus of the Task Force to review the revised language before taking action on Section 5069.11.

Section 5096.12 – Authority to Adopt Regulations:

It was moved by Ms. Hillebrand, seconded by Ms. Sos, and unanimously carried to approve this section as drafted.

Section 5096.13 – Expenditure Authority:

Ms. Crocker requested that this section be revised to include a provision indicating that implementation would be contingent upon obtaining the necessary staffing. **It was the consensus of the Task Force to approve Section 5096.13 with the revision suggested by Ms. Crocker.**

Section 5096.14 – Sunset Date:

It was the consensus of the Task Force to approve an effective date of January 1, 2006, to allow time for implementation, including the development of regulations. It was also the consensus of the Task Force to approve a sunset date of January 1, 2010 to allow adequate time to implement and evaluate the program.

Section 5100 – License Discipline:

During the discussion, Ms. D'Angelo Fellmeth expressed concern related to what would happen if a firm failed to comply with the requirements of Section 5096.1. Mr. Granen suggested this concern could be addressed by adding a new subdivision which would make violation of Article 5.1 cause for discipline. **It was moved by Ms. Flowers,**

seconded by Ms. Sos, and unanimously carried to approve the revisions to Section 5100 including the new subdivision suggested by Mr. Granen.

Section 5134 – Fees:

After discussion, it was moved by Ms. Hillebrand, seconded by Ms. Flowers, and unanimously carried to approve the revisions to Section 5134 with the removal of all reference to renewal of the practice privilege and the revision of the provision on firm notification fees to base the amount of the fee on the number of licensees employed by the firm.

III. Discussion of the Notification Process.

A Revised Draft Form for Individual Notification.

B. Revised Draft Form for Blanket Notification by Firms.

Because of time constraints, this agenda item was not discussed by the Task Force.

IV. Discussion of Additional Issues.

A. Internet Practice.

B. Exemptions from Notification.

Because of time constraints, this agenda item was not discussed by the Task Force.

V. Comments from Members of the Public.

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

VI. Agenda Items for Next Meeting.

Further discussion of draft statutory language was scheduled for discussion at the next meeting. Proposed revisions to Section 5088 was also placed on the agenda for the next meeting. Mr. Granen explained that, after reviewing the New York Board's proposal for conversion of the practice privilege into a license, he concluded it would be useful to consider placing out-of-state applicants for a California license under the practice privilege provisions so that these applicants would be subject to discipline the same as other holders of practice privileges. He noted that the primary difference would be that applicants for licensure would be permitted to have their principal places of business in California.

There being no further business, the meeting was adjourned at 3:55 p.m.

Attachment 1

UAA Task Force Agenda Item II
April 9, 2004

MOSS ADAMS LLP mri

CERTIFIED PUBLIC ACCOUNTANTS

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April 6, 2004

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

By e-mail: mcrocker@cba.ca.gov

Re: Incidental Practice in California

Dear Ms. Crocker:

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

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

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

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

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

Sincerely,

Neal West

Neal West, Director of Assurance Services
For Moss Adams LLP

CALIFORNIA ACCOUNTANCY ACT

Amendments to Establish Practice Privileges

Amend Section 5050:

Section 5050.

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

Article 5.1 is added to the Accountancy Act as follows:

ARTICLE 5.1
PRACTICE PRIVILEGES

Section 5096-Practice Privileges

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

(1) has continually practiced public accountancy as a certified public accountant for at least four of the last ten years; or

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

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

(b) The board may by regulation designate states as substantially equivalent under subsection (a)(2) and may rely on determinations of substantial equivalency by designated entities for that purpose. The board may accept individual qualification evaluations or appraisals conducted by designated entities~~,~~ as satisfying the requirements of subsection (a)(3).

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

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

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

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

(d) An individual who gives notice under this section:

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

(2) must comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional and ethical standards applicable to the practice of public accountancy by the licensees of this state and to laws and regulations applicable to individuals practicing under practice privileges in this state~~;~~, provided that such individual is deemed to have met the continuing education requirements and ethics examination requirements of this state where such individual has met the examination continuing education requirements of the state in which the individual holds the valid license, certificate or permit on which the substantial equivalency is based.

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

(3) may ~~shall~~ provide public accountancy services from either an office or offices located only outside of this state or from an office or offices of a firm licensed in this state and which employs the individual;

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

(e) A practice privilege, including but not limited to one under administrative suspension, expires one year from the date of the notice and may be renewed for an unlimited number of times. A practice privilege is cancelled five years from that last renewal date. Cancellation of a practice privilege does not prohibit an individual from applying for a new practice privilege. ~~An expired practice privilege may be renewed at any time within five years after its most recent expiration date, unless terminated by a notice or order of the board denying or revoking the practice privilege.~~

(f) Any individual who engages in any act which is the practice of public accountancy in this state based on a practice privilege and who does not successfully transmit the required fee to the board within the time required is deemed to have practiced unlawfully in this state under a practice privilege.

(g) No individual may practice under a practice privilege without prior approval of the board if the individual has any condition which under this Article or implementing regulations precludes the individual from practice privileges by notice. Disqualifying conditions, except as otherwise provided in implementing regulations, include:

(1) conviction of any crime other than a minor traffic violation;

(2) revocation, suspension, denial, surrender or other discipline or sanctions involving of any license, permit, registration, certificate or other authority to practice any profession in this or any other state or foreign country or to practice before any state, federal, or local court or agency. -The board may adopt regulations exempting minor violations from the provisions of this section. ~~(other than for failure to pay a professional license fee by the due date or failure to meet the continuing professional education requirements of another state board of accountancy, if such failure has been rectified), or to practice before any state, federal, or local court or agency;~~

(3) 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;

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

~~(5) employment on any audit engagement where the financial statements were subsequently restated to correct a material error.~~

Section 5096.1-Firm Notification

(a)The board may by regulation authorize qualified individuals who are owners or employees of firms registered with the board under this Act to exercise the practice privileges created by Section 5096, without individual notification under Section 5096(c)(1), upon such terms and conditions as the board deems appropriate, such record keeping as the board may require, and payment of a fee by the firm which shall not exceed the maximum fee permitted by Section 5134(j). Any person exercising a practice privilege under this section or under regulations promulgated hereunder is subject to denial, discipline, or administrative suspension of the employee's practice privilege to the same extent as an individual providing notification under Section 5096. A firm is subject to discipline, including but not limited to suspension of authorization for owners or employees to exercise practice privileges without individual notification under Section 5096, if the firm fails to provide complete and accurate information concerning its employees or otherwise fails to comply with this article and regulations promulgated hereunder. ~~(a) A firm licensed or registered under this chapter may provide notice of intent to engage in the practice of public accountancy under practice privileges on behalf of its employees who are individually qualified for practice privileges under this Article. This notice shall be accompanied by the fee provided for in Article 8 (commencing with Section 5130).~~

~~(b) A firm providing notice under this section shall:~~

~~(1) maintain records and respond to any board inquiry regarding any employee practicing public accountancy in this state under the firm's notice; and~~

~~(2) require that a covered employee sign an authorization document maintained in the firm's records during any time that the employee's practice privilege is valid, or expired but subject to renewal, providing that: (A) the firm has the individual's permission and consent to include the employee in any firm notification of practice privileges, (B) the employee consents to the personal and subject matter jurisdiction of the board over any conduct engaged in under practice privileges; and (C) the employee acknowledges that he or she is subject to discipline or other action by the board for any incomplete or inaccurate information provided by the firm regarding the employee in any practice privilege notice covering the employee.~~

~~(c) Notwithstanding subdivision (a), a firm may not include in a firm notification any employee who has any of the disqualifying conditions under Section 5096 or implementing regulations.~~

~~(d) Any employee covered under a firm notification is subject to denial, discipline, or administrative suspension of the employee's practice privilege to the same extent as an individual providing notification under Section 5096, and for failure of the employee's firm to provide complete and accurate information concerning the employee.~~

~~(e) Within 30 days of the end of each quarter, or a different time period specified by the board by regulation, a firm providing notification under this Section shall provide the board with a list of names and states of licensure for each employee who during the quarter practiced public accountancy in California under the firm's notification. The board may by regulation specify additional information to be provided.~~

(b) ~~(c)~~ Notwithstanding subdivision (a), a firm may not include in a firm notification any employee who has any of the disqualifying conditions under Section 5096 or implementing regulations.

Section 5096.2-Firm Responsibility for Employee Conduct Under Practice Privileges

(a) A firm is responsible, including but not limited to being subject to discipline or other action by the board, for the acts of its employees practicing under practice privileges to the same extent that the firm would be responsible if the employee were a licensee of the board.

~~(b) A firm which elects to file a firm notification on behalf of its employees is subject to discipline including but not limited to suspension of its authorization to provide firm notification under this Article for failure to provide complete and accurate information concerning its employees or failure to otherwise comply with this Article and implementing regulations.~~

Section 5096.3 -Practice Without Notice

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

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

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

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

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

Section 5096.4-Denial of Practice Privileges

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

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

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

(A) that the practice privilege is denied;

(B) the reasons for denial;

(C) the earliest date on which the individual may reapply for a practice privilege or is eligible for a practice privilege by notice;

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

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

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

(c) The board shall issue the notice of action under this section or file and serve a statement of issues under this section within five years of the last act of unlawful practice of public accountancy in this state or within three years of the discovery of such last act, whichever is later.

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

5096.5-Discipline of Practice Privileges

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

(b) Practice privileges are subject to discipline during any time period in which they are valid, under administrative suspension, or expired but subject to renewal. If an accusation is filed to revoke a practice privilege during any time when the practice privilege is valid, under administrative suspension or may be renewed, the period of time for renewal is extended 30 days after any final board decision or action terminating the proceedings.

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

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

Section 5096.6-Administrative Suspension

(a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, under conditions and circumstances provided for by board regulation, including but not limited to for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the representations made in the notice, the individual's competence or qualifications to practice under practice privileges or for failure to timely respond to a board inquiry or request for information or documents.

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

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

(1) the reason for the suspension;

(2) that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing;

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

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

(d) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state.

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

Section 5096.7- Signing Attest Reports

The holder of a practice privilege may not sign any attest report unless the holder meets the experience requirements of Section 5095.

~~OR~~

~~The holder of a practice privilege may not sign any attest report unless the holder meets the experience requirements of Section 5095 and completes continuing education substantially equivalent to the continuing education required by subdivision (c) of Section 5027 and implementing regulations.~~

Section 5096.9 Delegation of Authority, Executive Officer

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

Section 5096.-10- Definitions

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

(a) Anywhere the term "license," "licensee," "permit" or "certificate" is used in this chapter or Code it shall include persons holding practice privileges under this Article.

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

Section 5096.11-Investigative Powers
In addition to the authority otherwise provided for by this Code, all investigative powers of the board, including those delegated to the executive officer, shall apply to investigations concerning compliance with, or actual or potential violations of, the provisions of this Article or implementing regulations, including, but not limited to, the power to conduct investigations and hearings by the executive officer under Section 5103 and to issuance subpoenas under Section 5108.

Section 5096.12. – Authority to Adopt Regulations.
The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this Article.

Section 5096.13 – Expenditure Authority.
The expenditure authority of the California Board of Accountancy is hereby increased by $_____ for one Investigative Certified Public Accountant position and two Office Technician positions and operating expenses for workload associated with the implementation of the Article. The cost of this increase in expenditure authority will be covered by the fees collected from individuals and firms pursuant to the provisions of this Article.

Section 5096.14 – Sunset Date.
This article shall remain in effect only until January 1, _____, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, _____, deletes or extends that date.

Amend Section 5100:

Section 5100. – License Discipline.
After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5

(commencing with Section 5080), or may censure the holder of that permit, ~~or~~ certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

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

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

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

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

(e) Violation of Section 5097.

(f) Violation of Section 5120.

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

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

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

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

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

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

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

Amend Section 5134:

Section 5134. – Fees.

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

(a) The fee to be charged to each applicant for the certified public accountant examination shall be fixed by the board at an amount to equal the actual cost to the

board of the purchase or development of the examination, plus the estimated cost to the board of administering the examination and shall not exceed six hundred dollars ($600). The board may charge a reexamination fee equal to the actual cost to the board of the purchase or development of the examination or any of its component parts, plus the estimated cost to the board of administering the examination and not to exceed seventy-five dollars ($75) for each part that is subject to reexamination.

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

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

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

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

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

(g) The delinquency fee shall be 50 percent of the accrued renewal fee provided for in subdivision (f).

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

(i) The annual fee to be charged an individual for an initial practice privilege or renewal of a practice privilege pursuant to Section 5096 shall be fixed by the Board at an amount not to exceed 50 percent of the biennial renewal fee provided for in subdivision (f). There shall be no delinquency fee associated with renewal of a practice privilege.

(j) The fee to be charged partnerships or professional corporations for firm notification pursuant to Section 5096.1 shall be fixed by the board based on its estimate of the number of out-of-state licensees employed by the firm who will be practicing public accountancy in the state under the provisions of Article 5.1 not to exceed $50,000 for a two year period. This fee may be may be paid at the same time as the biennial renewal fee.

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

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

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

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

Attachment 3

UAA Task Force Agenda Item II
April 9, 2004

5088. (a) Any ~~person~~ individual who is the holder of a valid and ~~unrevoked~~ current license as a certified public accountant issued under the laws of any state and who applies to the board for a license as a certified public accountant under the provisions of Section 5087 may, ~~after application for licensure and after providing evidence of qualifying continuing education, perform the same public accounting services in this state as a certified public accountant licensed under Section 5092 or 5093~~, until the time ~~his or her~~ the application for a license is granted or rejected practice public accountancy in this state under a practice privilege in compliance with the provisions of Article 5.1 of this Chapter; except that the individual may maintain an office and principal place of business in this state.

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

State of California
Department of Consumer Affairs

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

Memorandum

UAA TF Agenda Item II
May 13, 2004

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

To : UAA Task Force
Interested Parties

Date : April 15, 2004

Telephone : (916) 263-3981
Facsimile : (916) 263-3674
E-mail :

From : Renata Sos, Chair
UAA Task Force

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

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

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

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

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

State of California
Department of Consumer Affairs

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

Memorandum

UAA TF Agenda Item III
May 13, 2004

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

To : UAA Task Force Members
Board Members

Date : May 3, 2004

Telephone : (916) 263-3981
Facsimile : (916) 263-3674

From : Renata M. Sos, Chair
UAA Task Force

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Attachments

CALIFORNIA ACCOUNTANCY ACT

Amendments to Establish Practice Privileges

Article 5.1 is added to the Accountancy Act as follows:

ARTICLE 5.1
PRACTICE PRIVILEGES

Section 5096-Practice Privileges

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) pay a fee as provided in Article 8 (commencing with Section 5130). The practice privilege commences when the individual notifies the board, provided the fee is received by the board within 30 days of that date.

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

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

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

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

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

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

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

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

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

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

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

(2) Disqualifying conditions include:

(A) conviction of any crime other than a minor traffic violation;

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

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

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

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

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

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

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

Section 5096.1 (formerly Section 5096.3) – Practice Without Notice

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

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

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

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

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

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

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

Section 5096.2 (formerly Section 5096.4) - Denial of Practice Privileges

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

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

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

(A) that the practice privilege is denied;

(B) the reasons for denial;

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

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

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

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

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

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

Section 5096.3 (formerly 5096.5) - Discipline of Practice Privileges

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

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

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

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

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

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

Section 5096. 4 (formerly 5096.6) - Administrative Suspension

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

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

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

(1) the reason for the suspension;

(2) a statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing;

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

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

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

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

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

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

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

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

Section 5096.5 (formerly 5096.7) - Signing Attest Reports

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

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

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

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

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

Section 5096.7 (formerly 5096.10) - Definitions

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

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

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

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

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

Section 5096.8 (formerly 5096.11) - Investigative Powers
In addition to the authority otherwise provided for by this Code, all investigative powers of the board, including those delegated to the executive officer, shall apply to investigations concerning compliance with, or actual or potential violations of, the provisions of this Article or implementing regulations, including, but not limited to, the power to conduct investigations and hearings by the executive officer under Section 5103 and to issuance of subpoenas under Section 5108.

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

Section 5096.9 (formerly 5096.12) – Authority to Adopt Regulations.
The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this Article.

Section 5096.10 (formerly 5096.13) – Expenditure Authority.
The expenditure authority of the California Board of Accountancy is hereby increased by $_____ for one Investigative Certified Public Accountant position and two Office Technician positions and operating expenses for workload associated with the implementation of the Article. This Article shall be implemented only if funds are appropriated in this statute or the annual Budget Act for purposes of this Article.

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

Section 5096.11 (formerly 5096.14) – Sunset Date.

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

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

AMENDMENTS NOT PART OF ARTICLE 5.1

Amend Section 5050:

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

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

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

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

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

Amend Section 5088:

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

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

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

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

Amend Section 5100:

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

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

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

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

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

(e) Violation of Section 5097.

(f) Violation of Section 5120.

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

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

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

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

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

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

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

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

Amend Section 5109:

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

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

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

Amend Section 5134:

Section 5134. – Fees.
The amount of fees prescribed by this chapter is as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DRAFT

Attachment B

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

Name: _____

Prior Names: _____

Firm Name: _____

Address Of Principal
Place Of Business: _____

Telephone Number (business hours): _____

Fax Number (business hours): _____

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

Date Of Birth: _____

Social Security Number: _____

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

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

1. I am an individual.

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

3. I have a valid license to practice public accounting in the state/jurisdiction of my principal place of business.

   State/Jurisdiction: _____ License Number: _____ Date Issued: _____

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

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

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

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

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

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

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

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

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

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

ADDITIONAL INFORMATION:

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

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

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

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

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

☐ 2. I have had a license, registration, permit or authority to practice surrendered, denied, suspended, revoked, put on probationary status or otherwise limited.

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

☐ 4. I have had a judgment or arbitration award in an amount greater than $30,000 entered against me in a civil action alleging actionable conduct in the practice of public accountancy.

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

Signature: _____ Date: _____

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

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

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 items 1, 2, or 3 under additional information, please provide explanatory details:

_____

_____

_____

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

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

Attachment C

MOSS ADAMS LLP mri

[illegible]

[illegible] Fourth Avenue [illegible]
[illegible]

[illegible]
[illegible]
[illegible]

April 6, 2004

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

By e-mail: mcrocker@cba.ca.gov

Re: Incidental Practice in California

Dear Ms. Crocker:

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

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

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

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

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

Sincerely,

Neal West

Neal West, Director of Assurance Services
For Moss Adams LLP