

BOARD OF PUBLIC ACCOUNTANCY  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

MINUTES OF PUBLIC HEARING

- Date: Friday, October 07, 2011
- Time: 8:30 a.m.
- Place: King Kalakaua Conference Room  
King Kalakaua Building, 1<sup>st</sup> Floor  
335 Merchant Street  
Honolulu, Hawaii 96813
- Present: Thomas T. Ueno, CPA, Chairperson  
Kent K. Tsukamoto, CPA, Vice-Chairperson  
Craig Hirai, CPA, Member  
Nelson Lau, CPA, Member  
Keith A. Regan, Member  
Emerito C. Saniatan, Member  
Rodney J. Tam, Deputy Attorney General  
Laureen M. Kai, Executive Officer  
Lori Nishimura, Secretary
- Excused: Michael Ching, CPA, Member  
Wendy Glaus, CPA, Member  
Steven R. Oberg, CPA, Member
- Guests: Kathy Castillo, Executive Director, Hawaii Society of  
Certified Public Accountants ("HSCPA")  
John P. Karbens, CPA  
Marilyn Niwao, CPA, Hawaii Association of Public  
Accountants ("HAPA")  
John Roberts, CPA, President, HAPA  
Stephanie Saballus, Student  
Gregg Taketa, CPA, HAPA
- Agenda: The agenda for this public hearing was filed with the  
Office of the Lieutenant Governor, as required by  
Hawaii Revised Statutes ("HRS") section 92-7(b).

Call to Order: There being a quorum present, the public hearing was called to order at 8:30 a.m. by Chairperson Ueno.

Introduction of Board Members: Chairperson Ueno introduced himself, Board members, Executive Officer Kai, and Deputy Attorney General Tam.

Purpose: Chairperson Ueno stated that the purpose of this public hearing was to afford all interested persons an opportunity to present testimony, orally, and/or in writing, on the proposed rule amendment to repeal Chapter 16-71-21(e), Hawaii Administrative Rules.

Notice of Public Hearing: Chairperson Ueno read the Notice of Public Hearing in its entirety, which was published in five newspapers of general circulation, the Honolulu Star-Advertiser, Hawaii Tribune-Herald, West Hawaii Today, The Maui News, and The Garden Island, on Monday, September 5, 2011.

Chairperson Ueno briefly described the procedure that would be followed at the public hearing, as follows:

1. If any individual wished to present oral testimony, he or she must sign up on the *Oral Testimony Sign-up Sheet*, and indicated where the sign-up sheet was located. Providing a written transcript of your oral testimony to the Board's Executive Officer before leaving the public hearing would be much appreciated;
2. If any individual had written testimony to submit but did not intend to present oral testimony, that written testimony should be submitted to the Executive Officer;
3. If any individual had already submitted written testimony to the Board for consideration, the Board asks that he or she limit oral comments to additional points that are not included in the written testimony. Providing a written transcript

of the oral comments to the Executive Officer before leaving the public hearing would be appreciated;

4. Oral testifiers would be called upon in the order of sign-up; each would need to state his/her name and address, and the name of the person, group, or organization that is being represented, if applicable;
5. Oral testifiers are asked to limit their testimony to five (5) minutes length;
6. Since the purpose of the public hearing is to hear the views and arguments of all interested persons, the Board will not be discussing any of the written or oral testimony during the hearing or answering any questions which might be raised by the testimony;
7. Immediately after the public hearing is adjourned, the Board will convene its regular meeting, which is open to the public, at which time the Board will fully consider all testimony, both oral and written;
8. The Board intends to make its decision on the proposed amendment to the administrative rules during the regular meeting.

Testimony:

The following individuals provided oral testimony at the hearing:

**1. John Patrick Karbens, CPA**

Dr. Karbens distributed copies of Article 5(f) of the Uniform Accountancy Act ("UAA") as part of his oral testimony to the Board, which is information to supplement his written testimony that had been submitted to the Board earlier.

Dr. Karbens testified in support of the proposed amendment to repeal HAR section 16-71-21(e) by referencing section 5(f) of the UAA that requires one year of experience for the initial issuance of a license. This one year of experience includes any type of service or advice involving the use of accounting skills, which is verified by a licensee, gained through employment in government, industry, academia, or public practice. He clarified that this experience can be supervised by a non-licensee but must be verified by a licensee.

Dr. Karbens stated that Hawaii is "very restrictive" in that two (2) years of experience are required for a license. However, the rule that is under consideration would further restrict entry into public accounting. He stated that as an educator for forty-four (44) years, he has seen first hand the long process his students must face in order to be licensed as a CPA in this State, and feels that we need to encourage students to enter the profession.

## **2. Gregg Taketa, CPA, HAPA**

Mr. Taketa had earlier provided copies of his testimony on behalf of HAPA, and wished to make oral comments in addition to that testimony. He stated that he is representing HAPA as its past president.

Mr. Taketa testified against the proposed amendment to HAR section 16-71-21(e). He believes that Hawaii has a unique definition of the term "licensee". In other states, a "licensee" can practice public accounting; however, Hawaii is a two tier licensing state, where a "licensee" has a much lower standing than a permit holder.

Mr. Taketa stated that it is not logical to allow CPA licensees with this much lower standing to

supervise CPA candidates as they fulfill the experience requirement, as these candidates can immediately obtain a permit to practice public accounting.

Mr. Taketa then stated that it is "ridiculous" to change the rule to accommodate a few employers in recruiting and retaining CPA candidates as employees. He stated that because the change was not in effect yet (with an effective date of January 1, 2012), the Board had not had the opportunity to test the merits of the rule.

He questioned whether Board members who vote to approve this amendment understood that their actions would send a clear message that the Board is willing to place the interest of a few individuals above its duty to protect the public.

### **3. Marilyn Niwao, CPA, HAPA**

Ms. Niwao had earlier provided copies of her written testimony on behalf of HAPA. She stated that she is presenting oral testimony representing HAPA and her CPA firm, Niwao & Roberts.

Ms. Niwao testified against the proposed amendment to HAR section 16-71-21(e). She stated that with today's rapidly changing accounting rules and tax law changes, education from continuing professional education ("CPE") for the CPA candidate's supervisor is critical. She also expressed her belief that allowing a supervisor without a permit to practice to attest to the experience requirement of a new CPA candidate would be in violation to Hawaii Revised Statute ("HRS") section 466-10(c), that clearly prohibits a CPA without a permit to practice from opining whether a CPA candidate has met the experience requirement with respect to accounting and auditing functions.

She testified that a CPA has ethical obligations to perform his/her work with due care and with competence, and the proposed rule change would violate the ethical obligations of the CPA profession; specifically in violation to HRS section 436B-19(9). She went on to state that ET section 53 of the AICPA's Code of Professional Conduct requires demonstrated commitment to professionalism and that ET section 56 requires the maintenance of a CPA's competence, both of which require continuing professional education to accomplish.

Ms. Niwao then commented on Dr. Karbens' oral testimony that referenced the UAA model act, stating that the UAA is not a law and that the Board is bound to follow the Hawaii Revised Statutes and the Hawaii Administrative Rules. She went on to state that the UAA has undergone five revisions and that no state or jurisdiction has adopted the UAA in its entirety. She added that the UAA does not have any provisions relating to a permit to practice because, unlike Hawaii, most states have only a one-tier regulatory structure. Ms. Niwao suggested that the Board may need to change its statute to adopt a one-tier license versus the current two-tier system, to avoid misleading the public.

Ms. Niwao stated that the CPA profession is "largely learned through on-the-job training"; therefore, it is vital that the supervision is from someone who has maintained their technical proficiency. She stated that CPAs employed in the private and government sectors are not prohibited from obtaining individual permits to practice. She mentioned that the Internal Revenue Service is imposing minimum CPE requirements for future unlicensed registered tax return preparers.

#### **4. John Roberts, CPA, President, HAPA**

Mr. Roberts distributed copies of his revised written testimony on behalf of HAPA, and asked that this be substituted for what had been submitted earlier. He then stated that he is presenting oral testimony as HAPA's president, and would be speaking to emphasize some points in his written testimony.

Mr. Roberts testified that the board of directors of HAPA opposes the proposed amendment to HAR section 16-71-21(e). Mr. Roberts also testified that the Board did not consider the following in its deliberations: (1) The amendment would violate HRS section 466-10; (2) The amendment would result in CPA licensees violating the ethical standards promulgated by the AICPA; (3) The repeal would result in license holders violating common sense because the proposal runs counter to the national direction; and (4) The repeal would violate sections II and IV of the Hawaii Small Business Bill of Rights.

Mr. Roberts commented that the trend toward "grade inflation" has degraded the value of this evaluation tool, and that the value of the licensing exam has also been degraded. The Board is left only with experience for prospective employers to appraise individuals, so the Board should not degrade this last assessment tool.

#### Procedure After Hearing:

Chairperson Ueno asked if there was anyone else who wished to present testimony at this time. Hearing no response, Mr. Ueno announced that discussion of and final decision on the proposed amendment to the rules will be made by the Board at its regularly scheduled meeting, to be convened immediately after the conclusion of this public hearing. Chairperson Ueno thanked everyone for attending and participating in the public hearing.

Adjournment: There being no further business to discuss, the public hearing was adjourned at 9:15 a.m. by Chairperson Ueno.

Taken and recorded by:



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Lori Nishimura, Secretary

Reviewed and approved by:



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Lauren M. Kai, Executive Officer

LMK:ln  
11/04/11

- Minutes approved as is.  
 Minutes approved with changes. See Minutes of \_\_\_\_\_