

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

MINUTES

Date: Tuesday, November 1, 2011

Time: 8:30 a.m.

Place: PVL Examination Room
King Kalakaua Building, 3rd Floor
335 Merchant Street, Room 330
Honolulu, Hawaii 96813

Present: Thomas T. Ueno, CPA, Chairperson
Kent K. Tsukamoto, CPA, Vice-Chairperson
Michael Ching, CPA, Member
Wendy Miki Glaus, CPA, Member
Craig K. Hirai, CPA, Member
Nelson K.M. Lau, CPA, Member
Steven R. Oberg, CPA, Member
Emerito C. Saniatan, Member
Rodney J. Tam, Deputy Attorney General
Laureen M. Kai, Executive Officer
Lori Nishimura, Secretary

Excused: Keith A. Regan, Member

Guests: John W. Roberts, CPA, President, Hawaii Association of
Public Accountants ("HAPA")

Agenda: The agenda for this meeting 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 meeting was called
to order at 8:30 a.m. by Chairperson Ueno.

Additions/Revisions
to Agenda: None.

Executive
Session:

At 8:31 a.m., it was moved by Mr. Oberg, seconded by Mr. Lau, and unanimously carried for the Board to enter into Executive Session to consider and evaluate personal information relating to individuals applying for licensure in accordance with HRS section 92-5(a)(1), and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities in accordance with HRS section 92-5(a)(4).

EXECUTIVE SESSION

At 10:12 a.m., it was moved by Mr. Ching, seconded by Vice-Chairperson Tsukamoto, and unanimously carried for the Board to move out of Executive Session.

The Board immediately recessed the meeting.

At 10:18 a.m., the Board reconvened its meeting.

Applications for
CPA Certification:

After discussion, it was moved by Vice-Chairperson Tsukamoto, seconded by Mr. Oberg, and unanimously carried to approve the following applications for certification:

1. ASATO, Brent J.
2. COX, Sharon P.
3. GUO, Qin
4. KIM, Janice M.
5. LAROZA, Christopher J.
6. LINK, Russell M.
7. MIURA, Marc K.
8. NERLAND, Derek H.
9. SCHNAKE, Michael B.
10. WENDLING, Steven R.

After discussion, it was moved by Vice-Chairperson Tsukamoto, seconded by Mr. Oberg, and unanimously carried (Mr. Lau recused himself from the vote) to approve the following applications for certification:

1. AKAMINE, Duane K.G.W.
2. LEVEY, Jerry D.
3. MASCARENAS, Bernard C.

Ratification of
Individual CPA
Permits to Practice:

After discussion, it was moved by Mr. Oberg, seconded by Mr. Ching, and unanimously carried to ratify approval of the following individual CPA Permit to Practice:

1. WONG, Shauna M.P.

After discussion, it was moved by Mr. Oberg, seconded by Mr. Ching, and unanimously carried (Mr. Lau recused himself from the vote) to ratify approval of the following individual CPA Permit to Practice:

1. HICKS, Robyn R.

After discussion, it was moved by Mr. Oberg, seconded by Mr. Ching, and unanimously carried (Vice-Chairperson Tsukamoto recused himself from the vote) to ratify approval of the following individual CPA Permit to Practice:

1. TAKAHASHI, Jessica S.

Ratification of
Issued Firm Permit
to Practice:

After discussion, it was moved by Mr. Oberg, seconded by Mr. Saniatan, and unanimously carried to ratify approval of the following Firm Permit to Practice ("FPTP"):

1. O'DONNELL & SMILEY

Approval of
Minutes of the
October 7, 2011
Board Meeting:

The minutes of the public hearing and the Board meeting held on October 7, 2011, were not completed as of the date of this meeting. The mandatory filing date is thirty (30) days from the date of the meeting, which is November 6, 2011; the minutes will be filed before that date, and approval of the minutes will be

on the agenda of the Board's next meeting on
December 9, 2011.

Chairperson's Report: A. Report on NASBA Annual Meeting

Chairperson Ueno stated he and the Executive Officer attended the NASBA Annual Meeting and provided the following brief summary of the issues addressed and presentations made:

- NASBA President and CEO David Costello will be retiring at the end of 2011, and Ken Bishop, current Vice-President and Chief Operating Officer, will accede to the position in January 2012. Taking Mr. Bishop's position is Colleen Conrad, CPA.
- The international administration of the Uniform CPA examination is going well; however, the Guam testing center, which is the usual test site for candidates from Japan, China, and Korea, is experiencing a significant drop in candidates and examination revenue. NASBA is exploring other international venues and mentioned Brazil as a possible test site.
- NASBA has entered into a Mutual Recognition Agreement with the Hong Kong Institute of Certified Public Accountants.
- The setting of private company standards has been a much deliberated topic and NASBA, through its Blue Ribbon Panel, has been an active participant. It was announced at the meeting that NASBA agrees with the Financial Accounting Foundation's *Plan to Establish the Private Company Standards Improvement Council*, and intends to monitor the process closely to keep state boards informed.

Discussion ensued concerning the upcoming Western Regional Meeting to be held in Anchorage, Alaska in June 2012. All Board members appointed after June 30, 2011 are encouraged to attend as they are provided an orientation on the role of a board member and NASBA's role in assisting boards of accountancy in their regulatory activities. Chairperson Ueno stated he will look into obtaining "scholarships" for the new Board members as well as for Mr. Lau who qualified last year but could not make it due to scheduling conflicts.

B. Other

No Report.

Executive Officer's Report:

A. Request for Extension of Conditional Credit from Exam Candidate George Martin

Executive Officer Kai stated the Board received a request for a ten (10) month extension of conditional credit from exam candidate George Martin. This is Mr. Martin's third request for an extension of the 18-month conditional credit period for the Business Environment and Concepts ("BEC") section of the CPA Uniform Examination. His first and second requests for one-month extensions, due to the continuing health issues of both parents for whom he is responsible, had been granted earlier, with the recommended approval of Chairperson Ueno, pursuant to HAR section 16-71-19(k), which states in pertinent part: "Notwithstanding any other provision to the contrary, conditional credits that have expired may be extended only for good and valid reasons as determined by the board."

This third request for an extension to September 2012 is also based on the continuing health issues of Mr. Martin's parents.

The Board was provided with copies of Mr. Martin's emailed requests as well as his Grade Report Summary from NASBA's CPA Examination Services, and discussion ensued concerning the validity of Mr. Martin's reason and whether it met the standard set forth in HAR section 16-71-19(k).

After discussion, Mr. Oberg moved to deny Mr. Martin's request for the extension of his conditional credit; however, there was no second to the motion and the motion did not carry.

After further discussion on the request, Vice-Chairperson Tsukamoto moved to deny Mr. Martin's request for a ten (10) month extension, but to approve a three (3) month extension to February 28, 2012, allowing him to test in the next testing window. The motion was seconded by Mr. Hirai, and with six (6) aye votes by Chairperson Ueno, Vice-Chairperson Tsukamoto, Messrs. Hirai, Lau, Saniatan, and Ms. Glaus, one (1) recusal from the vote by Mr. Ching, and one (1) nay vote by Mr. Oberg, the motion carried.

Standing Committee
Reports:

A. Legislation and Rules

1. Investigative Committee on Mobility

Committee Chairperson Tsukamoto stated he had nothing to report.

2. Discussion on Comments Received After Public Hearing on Board's Proposed

Amendment to Hawaii Administrative Rules
section 16-71-21(e)

Chairperson Ueno stated that the Board received comments after the public hearing on the Board's proposed amendment to HAR section 16-71-21(e) from Representative Isaac Choy and Gregg Taketa, expressing concerns relating to the Board's actions at the public hearing.

Chairperson Ueno read the response letter from the Board to Representative Choy and the response from Ms. Keali'i Lopez, Director of the DCCA, to Mr. Taketa. Chairperson Ueno stated that, pursuant to HRS section 91-3(a)(2), all written and oral testimonies had been considered by the Board, as noted in his opening remarks at the public hearing.

In addition, HRS section 91-3(a)(2) requires that "Upon adoption, amendment, or repeal of a rule", the Board, upon request, "shall issue a concise statement of the principal reasons for and against its determination." Chairperson Ueno commented that, although the Board was not required to do so until the repeal of the rule, he believed it to be in the public's interest to go through the points brought up by the testimony in opposition to the Board's proposal for the repeal of HAR section 16-71-21(e).

Chairperson Ueno stated that the Board received written testimonies that included three (3) testimonies expressing support for the proposal and fourteen (14) testimonies in opposition. He further stated that oral testimonies were received at the public hearing with one (1) in support and three (3) opposing the proposed rule amendment.

Chairperson Ueno reiterated that the administrative rule under consideration relates to the licensing status of the supervisor who is certifying the experience of an applicant for a CPA license. He explained that the section under consideration pertains to the supervisor and is not about the continuing professional education ("CPE") gained or not gained by the supervisor as well as other issues brought forward by the testimonies in opposition to the proposed amendment.

Chairperson Ueno then stated that the Board would first address the points brought up in testimony in opposition to the rule amendment that are common to the majority of testimony received by the Board.

- *Applicant should be supervised by a CPA current with CPE and with a permit to practice ("PTP").* Chairperson Ueno stated that the supervisor is attesting to what the applicant who is seeking a CPA license has done while employed, and is not determining its equivalence to experience in public accounting. He remarked that in some public practice (especially in the larger CPA firms), direct supervisors may not even be licensed CPAs. He further stated that the Board believes that its support for the proposed amendment could be justified based on the fact that the requirement is to qualify for a CPA license, which is the first tier in Hawaii's two-tier licensing system. A supervisor with a CPA license (first tier) has the minimum qualifications to assess the experience of an applicant for that same level of licensure, reflecting symmetry and equivalence in the evaluation process. An

applicant for a CPA license is applying to enter the first tier, not to practice public accounting, and the supervisor is attesting to that first level of licensure.

- *CPA work is learned on the job ("OJT") so supervisors must maintain technical proficiency by obtaining CPE.* Chairperson Ueno stated that the proposed amendment to the rule relates to the supervisor and not whether or not the supervisor has gained CPE.
- *CPAs in private/government sectors are not prohibited from getting CPE or PTP.* Chairperson Ueno stated that the Board agrees that this is a true statement.
- *Applicants were given adequate two (2) year notice.* Chairperson Ueno stated that given the current economy, it would be difficult for an employee to change employers in order to find another job at which the applicant would be supervised by a CPA with a PTP. The rule may force an employee to seek new employment based simply on this requirement.

Chairperson Ueno then went over the points brought up in the written (revised and distributed at the public hearing) and oral testimony of Mr. John Roberts, representing HAPA.

- *Violation of HRS §466-10 Prohibited Acts.* Chairperson Ueno stated that the law recognizes that an individual can use the designation of "CPA" as long as it is disclosed that the individual is not in public practice. This point is not related to the proposed rule amendment. DAG Tam

confirmed that the law (HRS section 466-10(d)) recognizes that an individual can be a CPA, not in public practice.

- *Violates the ethical standards promulgated by the American Institute of Certified Public Accountants (AICPA), an integral part of the regulatory framework for CPAs in Hawaii under HRS section 436B-19.* Chairperson Ueno stated that the rule amendment is not related to CPE; therefore, references to CPAs without CPE are not relevant. The Board also believes that no ethical standards will be violated as a result of the rule amendment.
- *Common Sense.* Chairperson Ueno stated that the rule amendment is not related to CPE; therefore references to CPAs without CPE are not relevant.

Mr. Ching left the meeting at 11:01 a.m.

- *Violates sections II and IV of the Hawaii Small Business Bill of Rights.* Chairperson Ueno stated that the Board did pass the rule amendment as a small part of an "omnibus revision" of the entire administrative rules chapter, and that the Board may have overlooked its significance in light of the major amendments to the remainder of the chapter. The Board has changed its position and must now make the correction. Board members agreed that it is better to change their minds about a rule rather than implement a rule with significant adverse results. DAG Tam stated that the law does recognize that experience may be gained in different settings but the underlying experience is

deemed to be equivalent regardless of employment setting. The type of experience required for a CPA license is consistent across all settings: public, private, government, or academia.

Chairperson Ueno went over the points brought up in Ms. Marilyn Niwao's written and oral testimony in opposition to the rule amendment. Mr. Ueno stated that most of Ms. Niwao's arguments and comments have already been addressed in the general points in opposition as well as in the discussion of Mr. Roberts' testimony in opposition. Ms. Niwao did comment that it is possible that the CPA supervisor may have never practiced public accounting and is unaware of what constitutes professional experience in public accounting. Chairperson Ueno reiterated that the law allows for experience in non-public settings as long as there is substantial equivalency. The responsibilities and duties in the experience are the same although in alternate settings and should be recognized. HRS section 466-5(d)(2) allows for the acceptance of such alternate experience.

Chairperson Ueno stated that the majority of Mr. Gregg Taketa's points in opposition as presented in his written and oral testimony have already been addressed in the discussion of the general points in opposition as well as in the discussion of Mr. Roberts' and Ms. Niwao's testimonies. Chairperson Ueno addressed the following specific points in Mr. Taketa's testimony:

- *Unlike most of the other jurisdictions, Hawaii has two levels within the CPA licensing requirements — (1) permits to*

practice which allows a CPA to hold themselves out to the public as CPAs and to practice public accounting, and (2) CPA license which does not allow license holders to hold themselves out to the public as CPAs and to practice public accounting (CPA license holder is not required to meet minimum CPE credit hour requirements or to undergo mandatory peer review. Consequently, license holders are not permitted to hold themselves out to the public as CPAs. Because of this, CPA license holders have a much lower standing than CPA permit holders). Chairperson Ueno stated that he and the Board disagree with the statement that CPA license holders have a much lower standing than permit holders; however, he acknowledged Hawaii's two-tier licensing structure. He further commented that the Board's statutes require that a CPA hold both a license and a permit to practice in order to actively practice public accountancy, and only requires both if the CPA desires and intends to practice publicly. Chairperson Ueno stated that one can also be employed by a CPA firm and have pertinent responsibilities and duties and not hold a permit to practice.

- *It isn't logical to allow CPA license holders with a much lower standing than a permit holder to supervise CPA candidates as they fulfill the experience requirement, as these applicants can immediately obtain a permit to practice and practice public accounting.* Chairperson Ueno noted that, in most cases, the newly-licensed individual would have to have earned eighty (80) hours of continuing

professional education before qualifying for a permit to practice.

- *The proponents of this proposed rule change have not provided any compelling reason to vote in favor of reversing a rule approved by a previous Board. The rule that is being changed has not been in effect (with an effective date of January 1, 2012). Consequently, the Board has not had the opportunity to test the merits of the rule and any arguments in favor of the rule change are based purely on speculation.* Chairperson Ueno reaffirmed that this is a technical correction to a rule amendment that, as a small part of the "omnibus" rule revision package approved by the Board in 2009-2010, had been overlooked at that time. Mr. Roberts stated that "overlooked" might not be the correct description or characterization of the Board's actions. He recalls that the Board did discuss this section at its meetings and has the tape recordings to prove it. The Board agreed with Mr. Roberts that the term did not correctly describe what the Board had done, but that this is really a change in the Board's position.
- *The experience gained by a CPA candidate must be taken as seriously as the other requirements of examination and education. The experience requirement is directly linked to the first general standard of generally accepted auditing standards -- "The auditor must have adequate training and technical proficiency to perform the audit". Attest work can only be performed by a CPA and is relied upon by the public. Attest work requires that the CPA exercise*

professional judgment when applying concepts such as the assessment of audit risk, materiality and adequacy of audit evidence. Development of a CPA's professional judgment cannot be acquired in the sterile environment of a classroom. It can only be learned through on-the-job training obtained while meeting the experience requirement. Chairperson Ueno stated that he agreed with parts of this statement; however, HRS chapter 466 allows the Board to accept experience gained in alternative settings and evaluate this experience to ensure that it meets the requirements set forth in HAR 16-71-21 and is substantially equivalent to experience gained in a public accounting firm.

Chairperson Ueno then went over Mr. Gilbert Matsumoto's written testimony in opposition to the rule amendment:

- *All changes to current law and rules only (sic) tends to weaken the statute or cloud basic premises. If the law is not broken why try to fix it!* Chairperson Ueno reiterated that this is the same argument as discussed previously. The Board believes that the law is not broken; however, if the proposed amendment to the rule is not effectuated, the rule would violate the statute. Chairperson Ueno stated that a correction is being made to keep a rule that has been in existence for many years.

Chairperson Ueno mentioned that written testimony received from Darlene Jo Ferrantino consisted primarily of points in opposition that have already been addressed in the discussion

of the points that were common to the majority of testimony, as well as in the discussion of testimony from Mr. Roberts, Ms. Niwao, and Mr. Taketa. Mr. Ueno stated that the administrative rule under consideration relates to the licensing status of the supervisor who is certifying the experience of an applicant for a CPA license, and not the CPE gained or not gained by this supervisor.

Vice-Chairperson Tsukamoto stated that he wished to amend his prior report from the Investigative Committee on Mobility, by reporting that HAPA has withdrawn its support and is no longer a part of the task force on mobility led by Representative Isaac Choy.

3. Proposed Revision of Hawaii Administrative Rules section 16-71-61

Ms. Glaus deferred this topic to the next meeting.

B. Uniform CPA Examination

1. Ratification of Examination Scores from the July/August 2011 Testing Window

Committee Chairperson Hirai reported the following:

EXAMINATION RESULTS (BY SCORES)

	Number of Scores	Percentage
Initial Credit	15	6.10
Added Credit	63	25.61
Failed	91	36.99
Passed Exam	18	7.32

No New Credit	59	23.98
TOTAL	246	100.00%

TOTALS BY EXAM PARTS (BY CANDIDATES)

	AUD	BEC	FAR	REG	TOTAL
# Attended	73	49	60	64	246
# Passed	33	15	24	24	96
% Passed	45.20	30.61	40.00	37.50	39.02

SUCCESSFUL CANDIDATES SUMMARY

# of Passing First-time Candidates	1
# of Passing Re-Exam Candidates	17
# of Passing Candidates	18

After discussion, it was moved by Committee Chairperson Hirai, seconded by Mr. Saniatan, and unanimously carried to ratify the examination scores from the July/August 2011 testing window.

Chairperson Ueno noted that Hawaii's passing percentage rate is lower than the national average.

2. International Administration of Uniform CPA Examination

Executive Officer Kai stated that it had been her understanding from information provided by NASBA's Pacific Regional Director in her presentation to the Board earlier this year, that passing examination scores of candidates taking the exam at an international testing

site would be valid for three (3) years, and would be invalidated after this period of time if the examination candidate had not gained licensure as a CPA in the United States. However, she has subsequently learned that NASBA is deferring to each individual state board to decide if and for how long passing scores of these international candidates would be valid. Ms. Kai asked that the Board determine whether to continue to follow the current procedure to accept passing examination scores in fulfillment of the Board's examination requirement for the life of the candidate, or to establish a separate procedure for the retention and validity of the passing scores of international candidates. Discussion ensued and the Board determined that passing scores for the Uniform CPA Examination would continue to be valid for the life of the candidate, regardless of where the test was passed.

C. Ethics

No Report.

D. Peer Review

1. Investigative Committee on Peer Review

Investigative Committee on Peer Review ("ICPR") Chairperson Oberg stated the committee is making progress and continuing to work to come up with a preliminary draft to be presented to the Board.

E. Continuing Professional Education

No Report.

F. Communications

No report due to Committee Chairperson
Regan's excused absence.

Next Board Meeting: Friday, December 9, 2011
King Kalakaua Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, Hawaii 96813

Announcements: None.

Adjournment: There being no further discussion, it was moved by
Vice-Chairperson Tsukamoto, seconded by Mr. Lau,
and unanimously carried to adjourn the meeting at
11:33 a.m.

Taken and recorded by:



Lori Nishimura, Secretary

Reviewed and approved by:



Laureen M. Kai, Executive Officer

LMK:ln

11/30/11

Minutes approved as is.

Minutes approved with changes. See Minutes of _____