

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

MINUTES

Date: Friday, February 6, 2015

Time: 8:32 a.m.

Place: King Kalakaua Conference Room  
King Kalakaua Building  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

Present: Nelson K.M. Lau, CPA, Chairperson  
Gregg M. Taketa, CPA, Vice-Chairperson  
Wendy M. Glaus, CPA, Member  
Craig K. Hirai, CPA, Member  
Darryl T. Komo, CPA, Member  
Gabriel Lee, Member  
Edward L. Punua, CPA, Member  
Carleton L. Williams, CPA, Member  
Rodney J. Tam, Deputy Attorney General ("DAG")  
Laureen M. Kai, Executive Officer  
Lori Nishimura, Secretary

Excused: Keith A. Regan, Member

Guests: Kathy Castillo, Hawaii Society of Certified Public  
Accountants ("HSCPA")  
Ron Heller, HSCPA  
Wendell Lee, HSCPA  
Daria Loy-Goto, Complaints and Enforcement Officer,  
Regulated Industries Complaints Office  
("RICO")  
Tim Lyons, HSCPA  
Darryl Nitta, C&Y CPAs LLC  
Marilyn Niwao, JD, CPA, Hawaii Association of Public  
Accountants ("HAPA")  
John Roberts, CPA, HAPA  
Valerie Shinataku, The Accountants Coalition, HSCPA  
Gordon Tom, CPA, President, HSCPA  
Bob Toyofuku, HSCPA

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 8:32 a.m. by Chairperson Lau.

Additions/Revisions to Agenda: None.

Approval of Minutes of the December 19, 2014 Board Meeting and the January 16, 2015 Board Meeting: Discussion ensued on the content of meeting minutes. Mr. Williams commented that the specific conversations or statements of the discussions that occurred during the meeting may not need to be reflected in the meeting minutes. DAG Tam commented that the law requires meeting minutes to be a true reflection of the meeting; and further that the State has not formally adopted Robert's Rules of Order, so boards are free to conduct their meetings as they see fit.

After discussion, it was moved by Mr. Komo, seconded by Mr. Punua, and unanimously carried to approve the minutes of the December 19, 2014 Board meeting, with the following amendments, as requested by Vice-Chairperson Taketa (with new material underscored and repealed material bracketed and stricken through):

- The first paragraph on page 13 that starts with "Mr. Williams inquired..." documents the discussion that took place after Mr. Taketa's motion to defer decision-making was seconded by Mr. Komo. Therefore, this paragraph should be inserted immediately after the motion and just before the following paragraph that starts with "The vote reflected..."
- The second full paragraph on page 14:  

"After discussion, it was moved by Committee Chairperson Taketa, seconded by Mr. Williams, and unanimously carried to approve the HSCPA's

Plan of Administration as submitted, and to approve HSCPA as [to be] a sponsoring organization [of the Board's Peer Review Program], with the full understanding that there may be changes to the Plan of Administration [may be suggested by the AICPA and other interested parties at any point] in the future [for the Board's consideration]."

After discussion, it was moved by Mr. Lee, seconded by Mr. Komo, and unanimously carried to approve the minutes of the January 16, 2015 Board meeting as circulated.

Executive Session:

At 8:43 a.m., it was moved by Vice-Chairperson Taketa, seconded by Mr. Punua, 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 9:27 a.m., it was moved by Vice-Chairperson Taketa, seconded by Mr. Punua, and unanimously carried for the Board to move out of Executive Session.

Applications for CPA Certification:

After discussion, it was moved by Mr. Lee, seconded by Ms. Glaus, and unanimously carried to approve the following applications for certification:

1. COHEN, Kami B.
2. ERICKSON, Mark
3. KORNIAKOV, Alexander
4. NAMNAMA, Katrina E.

After discussion, it was moved by Mr. Lee, seconded by Ms. Glaus, and unanimously carried (Chairperson Lau recused himself from the vote) to approve the following application for certification:

1. HUSTON, Brett

Ratification of Individual CPA Permits to Practice:

After discussion, it was moved by Vice-Chairperson Taketa, seconded by Mr. Punua, and unanimously carried to ratify the approval of the following individual CPA Permits to Practice:

1. GATELY, Robert A.
2. LAUE, Vonna
3. WHITE, Stacey K.

Ratification of Issued Firm Permits to Practice:

After discussion, it was moved by Vice-Chairperson Taketa, seconded by Mr. Komo, and unanimously carried to ratify the approval of the following issued Firm Permits to Practice:

1. ABF TAX ADVISORS LLC
2. R ANDREW GATELY & CO
3. SUSAN M LEE
4. PROVISOR LLC
5. NORMAN J SLAUSTAS
6. HAWAII ACCOUNTING LLC

Ratification of Firm Name Approval:

After discussion, it was moved by Vice-Chairperson Taketa, seconded by Mr. Komo, and unanimously carried to ratify the approval of the following Firm Name:

1. Abbi Namocot CPA, LLC

Chairperson's Report:

- A. National Update
- B. Industry Update

Chairperson Lau nominated the following members be assigned with Investigative

Committee on Mobility (“ICM”) Chairperson  
Taketa to the ICM:

Mr. Williams;  
Mr. Komo; and  
Chairperson Lau.

After discussion, it was moved by Mr. Lee,  
seconded by Ms. Glaus, and unanimously  
carried to approve the nomination of  
aforementioned members to the ICM.

Standing Committee  
Reports:

A. Communications

Committee Chairperson Lee reported that to  
date, he has received articles from Committee  
Chairperson Taketa on peer review, and  
Committee Chairperson Glaus on continuing  
professional education. He reminded the Board  
that the deadline to submit contributing articles  
is February 17, 2015. He also reported that he  
intends to include the AICPA re-codified Code of  
Professional Conduct in the upcoming Board  
newsletter that will be published in the near  
future.

B. Continuing Professional Education

Committee Chairperson Glaus had no report.

C. Ethics

1. Re-codified AICPA Code of Professional  
Conduct

Committee Chairperson Hirai had no  
report.

D. Legislation and Rules

Committee Chairperson Williams had no report.

E. Mobility

1. House Bill No. 243, Relating to Public Accountancy; Senate Bill No. 543, Relating to Public Accountancy
2. House Bill No. 1281, Relating to Public Accountancy Mobility; Senate Bill No. 1266, Relating to Public Accountancy Mobility

The consensus of the Board was to move the mobility agenda item to the end of the meeting to allow all participants to engage in a robust discussion.

F. Peer Review

1. Operating Agreement with HSCPA as Sponsoring Organization

Committee Chairperson Taketa reiterated that the Peer Review Oversight Committee ("PROC") recommended that there be an operational agreement between the HSCPA and the Board. He suggested that the Board pursue this matter in order to alleviate the PROC's concerns, and requested that DAG Tam review the draft agreement that had been distributed earlier and provide input to the Board.

2. HSCPA Plan of Administration

Discussion ensued on the proposed amendments to the HSCPA Plan of Administration that were received from the American Institute of Certified Public Accountants ("AICPA"). Committee Chairperson Taketa commented that the proposed amendments are quite significant, and noted that the additional

provisions are questionable since they do not appear to be within the scope of the HSCPA's duties and responsibilities as the sponsoring organization. He further commented that discussion on these proposed amendments with Representative Isaac Choy may be warranted to clarify the Representative's intent in crafting the statutes relating to the Board's peer review program. Mr. Komo commented that there are significant differences between the AICPA's proposed revisions and the provisions in the law relating to the Hawaii supplement. Executive Officer Kai added that the proposed amendments to the HSCPA Plan of Administration would need to be referred to the PROC for its consideration and subsequent recommendation to the Board.

After discussion, it was moved by Mr. Komo, seconded by Mr. Williams, and unanimously carried to refer the proposed revisions to the Plan of Administration to the PROC.

G. Uniform CPA Examination

1. Ratification of Examination Scores from the October/November 2014 Testing Window

Due to Committee Chairperson Regan's excused absence, Chairperson Lau presented the statistics for this testing window as follows:

EXAMINATION RESULTS (BY SCORES)

	Number of Scores	Percentage
Credit	80	41.88
No Credit	111	58.12
Lost Credit	0	0
Voided	0	0
TOTAL	191	100.00

TOTALS BY EXAM PARTS (BY CANDIDATES)

	AUD	BEC	FAR	REG	TOTAL
# Attended	37	56	54	44	191
# Passed	11	25	24	20	80
% Passed	29.73	44.64	44.44	45.45	41.89

SUCCESSFUL CANDIDATES SUMMARY

# of Passing First Time Candidates	2
# of Passing Re-Exam Candidates	19
# of International Candidates	1
# of Passing Candidates	21

After discussion, it was moved by Mr. Punua, seconded by Vice-Chairperson Taketa, and unanimously carried to ratify the examination scores from the October/November 2014 testing window.

Mr. Williams noted that the issue of "harvesting questions" for inappropriate use by exam candidates is of concern to both AICPA and the National Association of State Boards of Accountancy ("NASBA"), as



it is considered to be candidate misconduct during the administration of the examination. He mentioned that this concern was a topic of discussion at the recent NASBA meetings and remarked that NASBA would be pursuing ways to address this matter.

2. New Examination Fee Schedule for 2015, 2016, and 2017

Chairperson Lau reported on the new examination fee schedule for 2015, 2016, and 2017.

Discussion then proceeded on the following agenda item, which had been moved to the end of the meeting.

E. Mobility

1. House Bill No. 243, Relating to Public Accountancy; Senate Bill No. 543, Relating to Public Accountancy
2. House Bill No. 1281, Relating to Public Accountancy Mobility; Senate Bill No. 1266, Relating to Public Accountancy Mobility

It was noted that House Bill No. 243, Relating to Public Accountancy and House Bill No. 1281, Relating to Public Accountancy Mobility, had not yet been scheduled for hearing by the House Committee on Economic Development & Business. Therefore, the discussion would be limited to the consideration of the two (2) Senate bills. The following is a reflection of the discussion on each of the Senate measures.

Senate Bill No. 1266, Relating to Public  
Accountancy Mobility

- All legislation relating to mobility should be looked at by the Board in the context of: (1) protection of the public; and (2) equitable treatment of all CPA practitioners.
- Board agrees in principal with efforts to promote mobility in Hawaii.
- Board accepts RICO's suggestions as stated in its testimony at the Committee on Commerce and Consumer Protection ("CPN") hearing on February 4, 2015. Ms. Loy-Goto discussed the following additional concerns:
  - The out-of-State CPA should supply the Board with some information prior to practicing public accountancy in this State -
    - Particularly certain disqualifying criteria, such as disciplinary action in other states and criminal convictions;
    - Some form of pre-notification to Board will assist the consumer in doing his/her due diligence in deciding whether to engage the CPA's services;
    - If the out-of-State CPA's license and/or permit in the state of licensure is no longer valid, the CPA must notify the Board.
  - Require that the out-of-State CPA respond to any communication from the Board or RICO -
    - This will facilitate oversight and enforcement;
    - If the out-of-State CPA fails to timely respond, the Board should have the ability to administratively suspend the CPA's practice privilege.

- Clarification is requested relating to the administrative fine (of not less than \$10,000) -
  - Will this provision in the bill replace the existing language in HRS section 466-9 or will it be applied concurrently?;
  - If more than one person reports the violation, how would the costs be paid and the fines, penalties, and fees be distributed?
- Additional areas of concern
  - Constitutionality of provisions in bill that relate to the imposition of requirements on out-of-State CPAs that do not apply to in-State CPAs. This should be addressed by the Attorney General's Office; however, the Board recognizes that this is a concern.
    - A Hawaii CPA license can only be issued to an individual who is a U.S. citizen, a U.S. national, or an alien authorized to work in the U.S. [see, HRS section 436B-10(b)(2).] Will the out-of-State CPA without this status be allowed to practice in Hawaii through mobility?
    - The Board finds it disturbing that the bill appears to target a specific group and imposes significantly higher requirements and penalties on them – out-of-State CPAs and out-of-State firms. The laws and rules that in-State CPAs must abide by should also apply to all practitioners.
  - The Board asked DAG Tam for his comments on the bills, and he expressed the following concerns:
    - An out-of-State CPA who violates Hawaii tax laws, in addition to the Board's statutes (except for the

provisions relating to licensing) shall be guilty of a class B felony, while this does not apply to in-State CPAs. Tax law violations and sanctions are already in place and are enforceable by the Department of Taxation and not the Board;

- The “whistleblower” provisions in section 466-A(d) of the bill apply to a person who reports a violation; however, usually these types of provisions are tied to the resolution of a proceeding relating to a violation;
- The bill requires the Board to report to the Attorney General any incident relating to a written complaint received by the Board. Will this supplant reporting of a complaint to RICO? Will the AG be required to investigate any incident in order to determine that a violation has occurred? Will this determination be the starting point for the Board to report the CPA to the applicable board(s) of accountancy and to the ethics committee of each major national association, and further to impose the administrative fine?
- Bill provides for disparate treatment of out-of-State CPAs:
  - Reporting of a violation to the ethics committees is not required for in-State CPAs;
  - The administrative fine amount of not less than \$10,000 is double that of the \$5,000 fine for a violation by an in-State CPA;
  - The firm with whom the out-of-State CPA is affiliated bears the responsibility for all monetary sanctions imposed upon the out-of-State CPAs; however, in-State

CPAs and in-State CPA firms are both held responsible.

- Board's position: The Board voted unanimously to support RICO's position as expressed in its testimony on S.B. No. 1266 presented to the CPN at the February 4, 2015 hearing, but would also like to point out the above concerns.

#### Senate Bill No. 543, Relating to Public Accountancy

- All legislation relating to mobility should be looked at by the Board in the context of: (1) protection of the public; and (2) equitable treatment of all CPA practitioners.
- Board agrees in principal with efforts to promote mobility in Hawaii.
- Board accepts RICO's suggestions as stated in its testimony at the CPN hearing on February 4, 2015. Ms. Loy-Goto discussed the following additional concerns:
  - The out-of-State CPA should supply the Board with information -
    - Particularly certain disqualifying criteria, such as disciplinary action in other states and criminal convictions;
    - Some form of pre-notification to Board will assist the consumer in doing his/her due diligence in the decision to engage the CPA's services; otherwise, how will the consumer know if someone offering to provide public accounting services in Hawaii has proper permission to do so and is lawfully practicing in this State;

- Some form of pre-notification will also help the Board to ensure that a CPA is qualified to practice and will give the Board the opportunity to provide information to an out-of-State CPA on its laws and rules, as well as other requirements, such as the general excise tax on services as well as goods;
  - If the out-of-State CPA's license and/or permit in the state of licensure is no longer valid, the CPA must notify the Board.
  - Require that the out-of-State CPA respond to any communication from the Board or RICO -
    - This will facilitate oversight and enforcement;
    - If the out-of-State CPA fails to timely respond, the Board should have the ability to administratively suspend the CPA's practice privilege.
  - Clarification is requested relating the bill's provision that a qualifying out-of-State CPA not only consents to the Board's jurisdiction, but is also subject to discipline under the Board's laws and rules.
  - Clarification is requested about what oversight may be required by sponsoring CPA firms and what responsibility would the firm bear for conduct of out-of-State CPAs who are working under that firm's permit to practice.
- What form of pre-notification or notice would protect Hawaii consumers?
    - HAPA's information that Ken Bishop, President of NASBA, believes "notice" as in "no notice, no fees", does not include notice or registration to a state tax entity, might allow the Board to require

some form of pre-notification that includes tax registration notification. According to HAPA's information, Mr. Bishop stated that several mobility states currently have that type of requirement, and that tax registration does not undercut mobility.

- HSCPA's position that tax requirements are already in place and do not need to be included in a mobility bill. The Board and profession should not get involved in how the Department of Taxation enforces its laws and rules.
  - The Accountants Coalition ("TAC") representative stated that personally speaking, she agrees that this discussion is on the right track. It is difficult to provide notice so as long as it is not cumbersome, she would agree to a requirement that this type of notice be provided to the Board prior to engaging in the practice of public accountancy in the State.
  - Board's suggestion that since it appears that some level of notice is agreeable/ acceptable to all parties, the notice requirement should be included in the bill and attach a sunset date clause. This will allow all parties to evaluate the effectiveness of such notice and work toward changing this requirement or extending it.
- Individual Mobility vs. Firm Mobility
    - The Board suggested that the bill's provisions be bifurcated to address individual and firm mobility separately, and for individual mobility be discussed at this time.
    - All parties indicated agreement with this approach, and are willing to remove firm mobility from the bill.

- All parties agreed to the idea of creating an environment where out-of-State CPAs can practice in Hawaii, ensuring consumer protection through fulfillment of certain requirements, including providing notice to the Board.
  - Mr. Roberts stated his opinion that: (1) there is insufficient time to work out all differences and to re-establish trust between the parties (HAPA wants to be included from the start on any mobility legislation); (2) the two bills are unworkable and are dead or close to it; (3) a cooling off period is necessary; (4) Legislature is “hopped up” about this issue and all parties should be aware of the political realities in this matter; and (5) we should shut down this legislation and resume talks in May-June to craft something that all parties agree to and present a united front to the legislature.
  - In answer to the above, Mr. Toyofuku disagrees with shutting it down because he believes that it is still possible for the two sides to find alternatives. He does agree that bifurcating the bill is a possibility.
  - Mr. Heller suggested that the report to CPN Chairperson Senator Rosalyn Baker state that there are points that all parties agree on; however, more discussion is needed, and to request that the committee pass the bill through so that this discussion can be continued.
- Final summary, to which all parties indicated agreement:
  - Some form of notification is agreeable to all parties;
  - Separate the concepts of individual and firm mobility, and initially focus on individual mobility.



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Open Forum: None.

Next Board Meeting: Friday, March 6, 2015  
King Kalakaua Conference Room  
King Kalakaua Building  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

Announcements: None.

Adjournment: There being no further discussion, the meeting adjourned at 12:24 a.m.

Taken and recorded by:

/s/ Lori Nishimura

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Lori Nishimura, Secretary

Reviewed and accepted by:

/s/ Laureen M. Kai

\_\_\_\_\_  
Laureen M. Kai, Executive Officer

LMK:ln

03/05/15

[ X ] Minutes approved as is.

[ ] Minutes approved with changes. See Minutes of \_\_\_\_\_.