

NASBA State Board Report

A Digest of Current Developments Affecting State Accountancy Regulation

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PCAOB Seeks Public Enforcement

The Public Company Accounting Oversight Board is asking Congress to change the Sarbanes Oxley Act to permit the PCAOB to make its enforcement proceedings public, unless there is some good reason for a particular matter to be closed. In announcing the plan on August 5, PCAOB Acting Chairman Daniel L. Goelzer explained that currently, up until the point that the Securities and Exchange Commission decides to let the PCAOB's sanctions be enacted, the entire PCAOB proceeding remains nonpublic unless all parties consent to making it public.

"If the SEC were to bring the same case, alleging the same violations, against the same auditor, the SEC's charges would be disclosed at the time the Commission instituted its proceeding," Mr. Goelzer stated. "Any administrative trial would be open to the public. If there were an appeal to the Commission and an oral argument, the public could attend. The ability -- or inability -- of the Commission's staff to prove its charges would be a matter of public record. In the case of the PCAOB proceeding, no other auditor, no investor, no audit committee, no member of the media is entitled to know what the Board considers to merit discipline, whom we have charged, what issues are being litigated, and

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HHS Wants Accountancy Boards to Report

Efforts continue to clarify the State Accountancy Boards' responsibility to report to the Healthcare Integrity and Protection Data Base (HIPDB), housed in the U.S. Department of Health and Human Services. In February Governors were sent a letter requesting their assistance in filling in information gaps in the HIPDB, and then several State Accountancy Boards were directly contacted this spring and informed they must determine whether an action taken against a licensee is related to the delivery of a health care service or item and, if so, report it to the HIPDB. Boards were told they must register with the HIPDB and information could be obtained through www.npdb-hipdb.hrsa.gov. As of the end of August, the chart on that Web site showed only three State Accountancy Boards in compliance (New Jersey, Utah and Wisconsin).

In response to a letter from NASBA Director of Governmental Relationships Linda Biek challenging the need for the Accountancy Boards to report since they do not license health care providers, Cynthia Grubbs, Director – Division of Practitioner Data Banks, wrote: "The HIPDB collects information about health care practitioners, providers and health care suppliers. For purposes of reporting, the term health care supplier is defined in the regulations (45 CFR Part 61) to capture all final adverse actions relating to the delivery of a health care item or service. It includes 'any individual or entity...who furnishes, whether directly or indirectly, or provides access to, health care services, supplies, items, or ancillary services.' Further, the HIPDB Guidebook (page C-3) specifically includes accountants within the scope of this definition."

The requirement for this reporting is derived from Section 1128E of the Social Security Act that established the HIPDB, Ms. Grubbs explained. She noted that as of April 2010 there were approximately 40 reports on accountants contained in the HIPDB. Information about registration can be obtained from the Web site (noted above) or by calling the customer service center 1-800-767-6732.

Ms. Biek is planning to meet with HHS to discuss what is being required. Some executive directors have told NASBA they do not have the authority to run the reports the HIPDB form requires. ♦

IRS Registers Compensated Preparers

Individuals who receive compensation for preparing "all or substantially all" of a federal tax return claim for refund after December 31, 2010 will need to have a Preparer Tax Identification Number (PTIN). This will apply to all compensated preparers, whether or not they now have a PTIN; however, those who presently have one will generally be assigned the same number.

The Internal Revenue Service is proposing tax preparers will pay a \$64.25 user fee for the first year, of which \$50 per user will be paid for outreach, technology and the compliance efforts associated with the new program and \$14.25 per user will go to operating the on-line system and providing user support. Preparers will be required to annually renew their PTIN at the associated user fee. Applications can be completed on www.irs.gov.

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Candidate Numbers Out

The University of Illinois at Urbana-Champaign had the highest number of four sections of the 2009 Uniform CPA Examination passed by first-time candidates without an advanced degree, and the University of Missouri at Columbia claimed that spot for the most candidates with advanced degrees, according to NASBA's *Candidate Performance on the Uniform CPA Examination - 2010 Edition*.

University of Michigan had the highest passing rate among first-time candidates without an advanced degree who passed all sections. The data from the four 2009 Uniform CPA Examination testing windows were analyzed by Allan S. Cohen, Ph.D., University of Georgia, and James A. Wollack, Ph.D., University of Wisconsin. Each State Accountancy Board will receive a copy and others may purchase it in print or on disk through the NASBA Web site. The book is available at \$130.00, the CD at \$75.00 and the book/CD combo at \$180.

In 2008 there were 228,509 total testing events, up over 21,000 events from the previous year. 2009 saw an increase of nearly 19,000 events, bringing the total up to 247,364. ♦

IRS Registers Preparers

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The IRS has also issued proposed regulations to amend Circular 240 (REG-138637-07). Among these are: clarification of the definition of "practice," establishing a new regional tax return preparer designation and requirements for becoming one, and revising rules for continuing education providers. The comment deadline for these regulations is October 7, 2010.

In an op-ed piece appearing in the August 26, 2010 *Wall Street Journal*, U.S. Congressmen K. Michael Conaway (TX - R) and Brad Sherman (CA - D) urged the IRS to back away from plans for "new competency tests for all newly registered preparers. The tests would even cover CPA firm employees who are closely supervised by CPAs, heavily regulated by the states, and often have passed or are about to take a rigorous CPA exam." ♦

Schools With Highest Passing Rates Among First-Time Candidates Without Advanced Degrees

Rank	Institution	Fail	Number		Percent Passing
			Pass	of Candidates	
1	UNIV MI ANN ARBOR	9	39	48	81.25%
2	UNIV NOTRE DAME	11	41	52	78.85%
3	WAKE FOREST UNIV	10	37	47	78.72%
4	UNIV TX AUSTIN	33	104	137	75.91%
5	UNIV WA	9	28	37	75.68%
6	UNIV GA	22	61	83	73.49%
7	IN UNIV BLOOMINGTON	26	72	98	73.47%
8	IL WESLEYAN UNIV	9	24	33	72.73%
9	TRUMAN ST UNIV	10	25	35	71.43%
10	UNIV KY	13	28	41	68.29%
11	MI ST UNIV	19	39	58	67.24%
12	MARQUETTE UNIV	9	18	27	66.67%
12	NY UNIV	7	14	21	66.67%
12	UNIV ND	7	14	21	66.67%
13	AZ ST UNIV	16	31	47	65.96%
14	UNIV WI MADISON	24	45	69	65.22%
15	BRIGHAM YOUNG UNIV	20	36	56	64.29%
16	TX CHRISTIAN UNIV	8	14	22	63.64%
17	TX A&M UNIV	75	123	198	62.12%
18	OK ST UNIV	8	13	21	61.90%
19	LOYOLA UNIV CHICAGO	9	14	23	60.87%
19	MO ST UNIV	9	14	23	60.87%
20	UNIV TN KNOXVILLE	13	20	33	60.61%
21	NC ST UNIV RALEIGH	25	38	63	60.32%
22	BAYLOR UNIV	12	18	30	60.00%
22	UNIV IA	18	27	45	60.00%
22	UNIV WI LA CROSSE	10	15	25	60.00%

Schools With Highest Passing Rates Among First-Time Candidates With Advanced Degrees

Rank	Institution	Fail	Number		Percent Passing
			Pass	of Candidates	
1	VA POLYTECHNIC INST & ST UNIV	2	9	10	90.00%
2	BRIGHAM YOUNG UNIV	10	53	60	88.33%
3	BAYLOR UNIV	3	14	16	87.50%
4	JAMES MADISON UNIV	4	18	21	85.71%
4	UNIV OK NORMAN	3	12	14	85.71%
5	UNIV VA	6	13	16	81.25%
6	UNIV KY	6	8	10	80.00%
7	UNIV NOTRE DAME	8	19	24	79.17%
8	UNIV WA	9	27	35	77.14%
9	TX CHRISTIAN UNIV	5	13	17	76.47%
10	CUNY BARUCH	11	19	25	76.00%
11	UNIV NC CHAPEL HILL	5	15	20	75.00%
11	UNIV TN KNOXVILLE	5	9	12	75.00%
12	OH ST UNIV	4	11	15	73.33%
12	TX TECH UNIV	5	11	15	73.33%
13	UNIV CHICAGO	6	8	11	72.73%
13	UNIV MI ANN ARBOR	3	8	11	72.73%
14	UNIV MO COLUMBIA	33	63	89	70.79%
15	UNIV GA	4	7	10	70.00%
16	TX A&M UNIV	11	15	23	65.22%
17	UNIV CT	6	11	17	64.71%
18	OK ST UNIV	6	9	14	64.29%
18	UNIV UT	12	18	28	64.29%
19	AZ ST UNIV	7	7	11	63.64%
19	GEORGE WASHINGTON UNIV	6	7	11	63.64%

Charts reprinted with permission from NASBA's *Candidate Performance on the Uniform CPA Examination - 2010 Edition*.

FASB Chair Herz Retires

With two more years to go under his contract, Financial Accounting Services Board Chairman (FASB) Robert Herz has decided to resign. His eight years of leading the standard setting board will end on October 1, 2010.

Leslie Seidman will serve as acting chairman. She has been a member of the FASB since July 2003. She had managed her own firm and began her career as an auditor in the New York office of

Arthur Young & Company (now Ernst & Young, LLP).

International Accounting Standards Board Chair Sir David Tweedie will complete his term of office in June 2011 and a search for his successor is in progress. The FASB and IASB's standards convergence project will thus be under the direction of new leadership. Chair Tweedie will speak at NASBA's Annual meeting on October 26. ♦

President's Memo

Courage and Trust

I am awed and inspired by stories of men and women of courage. These motivating accounts range from the seemingly mundane event of a single mom protecting her child, to some grand heroic act such as Captain Chesley B. Sullenberger's courageous decision to land a plane in the Hudson River off Manhattan, saving the lives of 155 passengers aboard US Air flight 1549 plus potentially those of many more on the ground in the heavily populated New York area. I trust people who act courageously.

Courage takes on many faces and is displayed countless times each day by people making tough but right decisions. John Wooden built an incredible college basketball dynasty at UCLA in the 1960s and 1970s, winning 10 national titles over the course of 12 seasons. Some of you will recall that the 1960s--70s was a period of unprecedented individualism. The idea seemed to be that nobody had the right to interfere with personal freedom—whether parents, professors or police. One of Coach Wooden's all time best players, Bill Walton, was caught up in the spirit of the time. He appeared at practice after a semester break with a bushy red beard, a big “no no” for the coach who strictly forbid facial hair.

“It's my right,” Walton told Wooden.

“That's good, Bill,” the Coach said. “I admire people who have strong beliefs and stick by them. We're going to miss you.”

The beard was shaved, Walton stayed, the team continued its winning ways and the Wooden-Walton friendship remained strong until the day of Wooden's passing. I trust people who act courageously.

W. Clement Stone, businessman, philanthropist and self-help author, said it this way: “Have the courage to say ‘no’. Have the courage to face the truth. Do the right thing because it is right. These are the magic keys to living your life with integrity.”

Courage leads to trust. And that's the one quality that the NASBA Center for the Public Trust (CPT) puts on display, whether through conferences, seminars, student chapters on university campuses or with “Being a Difference” awards. We know about the ones who make bad choices, who shred documents, who hide liabilities, who fail the tests of ethics and right-doing. We know those stories. But the CPT is about telling the other stories—the super majority of events and activities carried out by courageous individuals and companies who are trusted because of their valor and boldness to get it right.

Want to participate in the CPT's quest to highlight courage? We have a unique opportunity at the upcoming NASBA Annual Meeting in San Antonio, Texas, on Monday, October 25, to assist the CPT in furthering its mission to champion trust throughout our states and country. It's a silent auction. Items have been donated and you and others will be given an opportunity to bid on and buy some fantastic things—resort rentals, recreational pursuits, art, jewelry, hotel stays, dinners and much more. One special event is a progressive dinner in Franklin, Tennessee, involving a visit to Ken and Sheila Bishops' and David and Sally's residences. Some may think that putting up with our bad jokes for an evening is a courageous act.

The public's trust is powerful and is the only guarantee that CPAs will continue to be licensed to practice in privileged status. For that privilege to continue, we must acknowledge courage to do right, act right and stand up when required. The CPT exists solely to champion trust built on such courage.

“Sully” acted courageously and I'll fly with him any day, should he come out of retirement. John Wooden knew how to say “no” and his trust quotient continues after his death. Come join us at the Annual Meeting, participate in the silent auction and follow the CPT in its success at highlighting courage and the trust emanating from such a powerful quality of life.

*Ad astra
Per aspera*



David A. Costello, CPA

A handwritten signature in black ink that reads "David A. Costello". The signature is written in a cursive, flowing style.

— David A. Costello, CPA
President and CEO

PCAOB Seeks Public Enforcement

(Continued from page 1)

whether the Board's staff has won or lost. The public is in the dark about how the Board uses its enforcement authority until there is a settlement or an SEC decision on the Board's sanctions." Chairman Goelzer will speak on October 27 at NASBA's Annual Meeting in San Antonio.

He explained, "Of course, as in the case of the SEC, the Board investigations should remain private and confidential, and the process of asking a firm or individual for a statement of position — which is similar to the SEC Wells process — also should stay private. However, if the Board votes to initiate formal disciplinary action, the administrative proceeding in which the validity of those charges is decided should normally be public."

PCAOB Division of Enforcement and Investigations Director Caludius B. Modesti and PCAOB Members Gradison, Harris and Niemier also stated their support for the proposal. ♦

Russian Case Comes to CA Board

Counsel for imprisoned Russian oil tycoon Mikhail Khodorkovsky has asked the California Board of Accountancy to revoke the license of Douglas Miller, the former PricewaterhouseCoopers partner who approved the withdrawal of PWC's audit opinions of Mr. Khodorkovsky's company, OAO Yukos.

Mr. Khodorkovsky has been accused of embezzling tens of billions of dollars from his company. For 10 years PWC was Yukos' auditors. He at one point had political ambitions and his legal counsel claims PWC was put under pressure by the Russian government to withdraw its audit opinions.

Wall Street Journal reporter Gregory L. White wrote: "PWC's entanglement in the legal travails of Mr. Khodorkovsky highlights the ethical and legal dilemmas that can face auditors in emerging markets where corporate governance and judicial systems are weak, industry observers say." ♦

2 Members to Be Added to FASB

The Financial Accounting Standards Board will once more have seven members, Financial Accounting Foundation (FAF) Chairman Jack Brennan announced on August 24. He explained: "Returning the Board to the seven-member structure will enhance the FASB's investment in the convergence agenda with the International Accounting Standards Board (IASB), while addressing the unprecedented challenges facing the American capital markets in the months and years ahead. The FAF trustees believe this is the right investment in the standard-setting process at the right time that will enable it to accomplish the many duties that are so central to the organization's constituents."

NASBA Chair Bill Atkinson, a member of the AICPA/FAF/NASBA Blue Ribbon Panel (BRP) on Standard Setting for Private Companies, along with others, had been urging the BRP to recommend increasing the size of the FASB in order to deal with the concerns raised by those who prepare financial reports for private companies.

The new FASB members are expected to be named in early 2011. FAF Chairman Brennan will be the keynote speaker at NASBA's Annual Meeting on October 25. ♦

CPAB Calls for More Rigorous Code

The Canadian Public Accountability Board (CPAB) has advised the Canadian Institute of Chartered Accountants (CICA) that they do not believe the Code of Ethics for Professional Accountants issued by the International Ethics Standards Board for Accountants (IESBA) is adequate for adoption in Canada.

In his July 13 letter to the CICA, Brian Hunt, CPAB Chief Executive Officer, notes that "...we understand the independence requirements in the UK, US, France, Japan, South Africa and Switzerland are more rigorous than the Code."

NASBA Director-at-Large Gaylen Hansen was recently appointed to the IESBA's Consultation Advisory Group. ♦

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