NASBA

STATE•BOARD•REPORT

A Digest of Current Developments Affecting State Accountancy Regulation

Volume XLVI, Number 7 July 2017

Regionals 'Clear the Mechanism'

NASBA Chair Ted Lodden challenged the 2017 Regional Meeting attendees to, "Clear the mechanism," (as Kevin Costner said in "For Love of the Game") and focus on what is needed for good regulation. Speaking at the Western Regional Meeting, on June 7 in Coeur d'Alene, ID, and at the Eastern Regional Meeting on June 28 in Newport, RI, Mr. Lodden joined with President and CEO Ken L. Bishop to describe the work being done by NASBA to: develop a CPE Audit Tool; push back on legislation that could undermine professional regulation; create transparent mutual recognition agreements covering experienced international professionals; promote meaningful ethics standards; embrace new technology; ensure high accreditation standards; and administer effective peer review programs.

"I don't think data analytics will bring the end of the CPA profession," Chair Lodden said, "I think data analytics will strengthen the profession as it will cause practitioners to have higher level skills." He has assigned NASBA's Standard Setting Advisory Committee to provide the regulator's input into the profession's use of data analytics. President Bishop observed that the accounting profession will be facing competition from other professions as they seek to hire some of the same people. "The CPA profession will be around if we do not lose focus and take our eye off the ball," Mr. Bishop stated.

Chair Lodden reminded the Boards that NASBA wants their input on the proposed language to permit the use of management accountant titles. "The Boards of Accountancy are the umpire: You have to call it a 'ball' or a 'strike.' The NASBA Board of Directors spent a lot of time wrestling with the proposed language. Now we need to know if you like it." The comment deadline is September 30, 2017.

He also called on the Boards to submit their comments to the AICPA on its proposed changes to the administration of their peer review program. In determining which group should serve as the administering entity for a state's peer reviews, President Bishop commented: "We congratulate the AICPA on continuously improving the peer review process, but State Boards need to have oversight."

Chair Ted Lodden advises Boards to "clear the mechanism" to regulate.

Progress in crafting more transparent mutual recognition agreements with international accounting bodies is being made, Chair Lodden reported. The agreements are being constructed to have appendices that clearly state what is needed for recognition in another country and where there are gaps in the recognition being offered. The goal is to mitigate those gaps in future agreements.

Total registration for the Western Regional Meeting was 198 and for the Eastern 236, with all but one Board of Accountancy represented at either one or the other. ♦

The Western Regional gathered 198 attendees in Coeur d'Alene.

The Eastern Regional Meeting gathered 236 attendees in Newport.

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Nominating Committee Announces Slate

The NASBA Nominating Committee met on June 29, 2017 in Newport, RI, and selected the following individuals as their nominees for Directors-at-Large and Regional Directors, as reported by Nominating Committee Chair Donald Burkett:

Directors-at-Large (three-year term)

J. Coalter Baker
(TX - Delegate)

Maria E. Caldwell
(FL - Associate)

W. Michael Frtiz
(OH - Associate)

Regional Directors (one-year term)

Southwest
C. Jack Emmons
(NM - Delegate)

Southeast
Casey Stuart
(TN - Delegate)

Middle Atlantic
Stephanie S. Saunders
(VA - Delegate)

Northeast
Catherine R. Allen
(NY - Delegate)

Great Lakes
Sheldon P. Holzman
(IL - Delegate)

Pacific
James R. Ladd
(WA - Delegate)

Mountain
Nicola Neilon
(NV - Delegate)

Central
Sharon A. Jensen
(MN - Delegate)

2017-19 Nominating Committee Selection

At the 2017 Regional Meetings, four Regions' Nominating Committee members and alternate members were selected, in accordance with Article VII Section 3 of the Bylaws. The newly elected 2017-19 Nominating Committee members are:

- **Great Lakes – Barry Berkowitz (Delegate – PA) member; James P. Gero (Delegate-OH) alternate;**
- **Mountain – Karen Turner (Associate – CO) member; Harry Parsons (Associate – NV) alternate;**
- **Northeast – Frederick G. Briggs, Jr. (Delegate- NH) member; Tracy Harding (Delegate- ME), alternate;**
- **Southwest – Barbara A. Ley (Delegate – OK); Thomas G. Prothro (Associate – TX) alternate.**

As previously announced, Janice L.Gray (Associate – OK), is the Nominating Committee's choice for Vice Chair 2017-2018, to accede to Chair 2018-2019 if elected Vice Chair by the member Boards at the October 31, 2017 Annual Business Meeting in New York City. Elections for the other NASBA officers will also take place at that time. Nominations may also be made by any five member Boards if filed with NASBA Chair Telford Lodden at least 10 days before the Annual Business Meeting. A majority vote of the designated voting representatives of the member Boards attending the Annual Meeting shall constitute an election provided a quorum is present. ♦

Reporting on Anti-Regulation Efforts

Groups that are working to reduce or eliminate occupational regulation and oversight were the focus of panel discussions moderated by NASBA Director of Legislative and Governmental Affairs John Johnson at the June Regional Meetings. He was joined by panelists Nathan Standley, Esq., Nicola Neilon (NV), Mark Ohrenberger (AR), Stephanie Saunders (VA), and Andy Wright (MS). Among the bills examined by the panelists were those that reflect the ideas and policies spearheaded by the American Legislative Exchange Council (ALEC), the Institute for Justice, the Cato Institute, Americans for Prosperity, the Mercatus Center and the Goldwater Institute.

Mr. Johnson noted that these groups believe occupational licensing is the most significant issue in labor economics, and they are no longer distinguishing between professional regulatory bodies such as Boards of Accountancy, and other occupations (e.g. hair braiders, auctioneers, and others). These advocacy groups often highlight the fact that, in the 1950s, only one in 20 Americans needed a license to work, but currently it is closer to one in three. They call these licenses "barriers to entry." The Institute for Justice found that only 15 of the 102 low and moderate income occupations have been licensed in 40 or more states. These occupations typically bear little resemblance to professions like accounting. These groups also like to point out the disparity of licensed occupations between states. For example,

John Johnson leads panel session on anti-regulation initiatives in states.

California licenses 177 occupations while Missouri licenses 41. As Mr. Johnson noted, "CPAs constitute a profession that is regulated in 55 U.S. jurisdictions -- and in many of those for more than 100 years. So much of what these advocacy groups are talking about does not apply to us. We have to write a story collectively on what we have done as a profession over the last three decades. From a pro-competitive perspective, the accounting profession has worked extremely hard to streamline the practice of accountancy throughout the country

(Continued on page 5)

The Demise of the Certified Public Accountant - Part II

Ken L. Bishop
President & CEO

I think this is the first time I have written a "Part II" to a *President's Memo*, but because of the response I received to last month's *Memo*, I decided to continue the conversation. First, let me express my appreciation for the many emails, phone calls and conversations in support of my stated views.

I was surprised by the reaction and tremendous amount of feedback that even surpassed the "*Photos on the Wall*" memo, which I wrote my first year as CEO addressing diversity. Interestingly, the response was not just from State Board members and staff, but from State Societies, firms of all sizes, individual CPAs, federal regulators and other stakeholders from across the country. The theme of the responses was consistent:

"Thank you for writing it."

"Glad someone is looking out for us"

"It needed to be said."

And, "Thanks for the support of our profession."

I am not going to reiterate the elements of the first *Memo* other than reinforcing that I truly believe that the Certified Public Accountant profession is strong and viable well into the future, and that careless and theoretical rhetoric can be harmful. That being said, there are thoughtful concerns and predictions being raised that I completely concur with.

My father was a great shade tree mechanic when he was a young man. As a boy, I remember hearing stories from his friends about how he could, by listening to a motor, ascertain the issue and, with minimal tools, fix almost any mechanical problem. Ultimately, he leveraged those skills and his love for cars into a successful career as an automotive technician, race car pit crew member and, ultimately, a General Motors dealership shop foreman.

By the early 1990s, automotive technology was changing and computers began replacing many traditional mechanical components. Rather than learn the complexities of the new systems, my father decided to retire. Obviously, the need for skilled mechanics continues, and many of the basic skills remain very similar. However, failure to keep up with the technological changes has resulted in a shortfall in the number of qualified mechanics needed in the industry. Similarly, though the demise of Certified Public Accountants is not inevitable, changes in the accounting profession and the skill sets of auditors and accountants certainly are coming.

I recently had a thoughtful conversation with my friend the CEO of AICPA regarding my *Memo* and, more importantly, the future of the Certified Public Accountant profession. While he was clearly not in agreement with some of my expressed positions, as is often the case, we found ourselves agreeing with more than we disagreed. Effectively we agreed that the profession is going to change rapidly, and as organizations and State Boards we need to be prepared for the impending changes, as do the Certified Public Accountants of the future. Most importantly, we expressed our mutual steadfast support of the profession and our commitment to prepare for change.

In a recent *Wall Street Journal* article there was a discussion about the "new, unregulated fundraising method…based in a world of crypto-currencies." It described how two startup companies with virtually no sales raised $400 million through "Initial Coin Offerings," and another existing company raised $300 million. Bitcoin, blockchain and other distributed ledger technologies are rapidly changing the way financial transactions occur. As discussed last month, the use of data analytics will continue to be more prevalent in audits of the future.

Frankly, the profession and regulators have plenty of catching up to do, as do educators, standard setters and examiners. We will soon be beginning a dialog as to how we can encourage and embrace change while supporting and nourishing the Certified Public Accountant profession and a strong regulatory State Board system to protect the public interest.

Semper ad meliora (Always toward better things).

Ken L. Bishop
President & CEO

Task Force Tackles Trust in Education

The recommendations of a joint NASBA/AICPA task force on accreditation of education were presented by NASBA Education Committee Chair Raymond N. Johnson and NASBA Vice President – Strategic Planning & Program Management Ed Barnicott at the 2017 Regional Meetings. In response to State Boards' concerns about the ways higher education is changing, impacting its delivery and value, the AICPA/NASBA Accreditation Task Force began work in January 2016 with meetings with accounting program and regional accreditors. "Accreditation is very important," Dr. Johnson stated. "We want colleges to innovate, to use technology, but to do so maintaining a high level of quality – and that is what we are depending on the accreditors to do."

Dr. Johnson briefly discussed the Task Force's 11 recommendations and explained they are only the beginning of the process. Representatives of NASBA and the AICPA are currently working on some of the recommendations with the Association to Advance Collegiate Schools of Business (AACSB), which accredits schools that account for approximately 60 percent of the CPA candidates. NASBA and the AICPA are also seeking to engage with other business accrediting bodies, including the Accreditation Council for Business Schools and Programs (ACBSP), and International Assembly for Collegiate Business Education (IACBE).

The recommendations, as summarized by Dr. Johnson, include:

1. Within each programmatic accrediting body there should be a perpetual scan of accounting education, and education in general, by a standing committee composed of accounting academics, practitioners and regulators.
2. All aspects of the programmatic accreditation process should include involvement of, and a more defined role for, the profession and regulators.
3. The accounting members on the team evaluating the program should have the authority to make the recommendation to grant or extend accounting accreditation.
4. Include explicit recognition of professional experience in evaluating faculty qualifications.
5. Consider developing a risk-based approach to accreditation review timing and content, with a shorter standard review cycle and the potential for longer periods for institutions that demonstrate a history of strong quality controls.
6. Learning outcomes that support student employability and long-term career success should be significant factors in awarding and maintaining accreditation.
7. Ensure that institutions are adhering to well-defined standards for assessing and granting transfer credit.
8. Accreditors need to have policies and procedures in place to enable the public, regulators and the profession to register concerns about problematic institutions and to have adequate follow-up with such institutions.
9. Exercise quality control of teaching modalities by following established standards and best practices.

Ray Johnson outlines recommendations of joint task force on accreditation.

10. Provide information to assist candidates in selecting an educational institution.
11. Work with the American Association of Collegiate Registrars and Admissions Officers (AACRAO) to ensure transcripts are transparent as to the equivalency of educational experience and modality employed.

While the Task Force heard in engineering approximately 95 percent of licensees come from a program accredited school and in architecture approximately 97 percent come through a program accredited school, only about two-thirds of CPAs come through an accredited business program, Dr. Johnson noted. However, he added, there are good candidates coming through schools without program accreditation and the Boards need to be respectful of them.

Dr. Johnson said the most important of these recommendations for immediate action is the AACSB has said they will add professionals to their review teams -- but they will need volunteers. AACSB conducts about 50 reviews of accredited accounting programs per year and one professional will be required for each of those reviews. Probably in the fall an official request for volunteers will be issued, and then in the spring of 2018 the AICPA will provide the training, so that the volunteers can be involved in the 2018-19 review cycle.

One of the NASBA Education Committee's projects in the coming months is the establishment of a clearinghouse to bring the Boards' complaints to the accreditors and get a reasonable response, Dr. Johnson reported. "The accrediting bodies do have a process for registering complaints, but we don't know how robust that is," he stated.

The AICPA/NASBA Accreditation Task Force's co-chairs are Joanne Fiore and Carlos Johnson. Its members are Ed Barnicott, Tonya Flesher, Brentni Henderson, Yvonne Hinson, Raymond Johnson, Sharon Lassar and Steve Matzke. Jan Williams has served as the Task Force's consultant.♦

The deadline for comments on the exposure draft on proposed title language for the Uniform Accountancy Act is September 30, 2017.

Bringing Data Analytics into Curriculum

The time has come for accounting programs to include the study of data analytics, according to Dr. Hussein Issa of Rutgers University. Speaking at the Eastern Regional Meeting, Dr. Issa observed that while accounting firms can hire data analysts from outside accounting, it is more difficult to teach the data analytics specialist to understand what an audit requires. "Eventually you need to be able to understand if the other team members have applied the technology in the right way," he observed. While it is up to the universities to update the skills they teach to their students, "it is also the job of firms, regulators and companies to encourage students to have these skills before they hire them. Reward them for these skills," he recommended.

Regulatory Response Committee Chair W. Michael Fritz and Standard Setting Advisory Committee Chair Catherine Allen conducted panel sessions at both the Eastern and Western Regional Meetings exploring the importance of data analytics and artificial intelligence to the accounting profession and its regulators. Mr. Fritz showed the audience a short video that Deloitte is using to highlight for students the importance of technology in current practice.

"Data analytics is not new: What has changed is technology, in that you can run more advanced analytics. The low cost of storage means you can write analytics on a much larger set. Data analytics is a methodology that should be used as an assistant to the human, not a replacement. It assists the driver, but does not replace the driver," Dr. Hussein observed. Mr. Fritz commented, "That is where professional judgment comes into play." Ms. Allen noted that the possible time-saving techniques can alleviate many of the discussions that audit teams have about being time pressured. ♦

C. Allen, H. Issa and M. Fritz discuss data analytics' impact on auditing regulation.

Reporting on Anti-Regulation Efforts (Continued from Page 2)

in an effort to ensure individuals can practice across state lines and adhere to our public protection mandate. Because of these state-by-state deregulation campaigns, we are now working on a strategy to educate these groups and legislators about the accounting profession, and get them to recognize that their 'one-policy' approach – which encompasses all occupations and professions is not the solution to their perceived issues with regulatory oversight. That it is, in fact, detrimental to the financial health of our citizens."

Model acts that Mr. Johnson identified as having influenced legislation included: ALEC "Occupational Licensing Relief and Job Creation Act" (2012) and "Occupational Board Reform Act"(2016); Institute for Justice's "Occupational Board Reform Act" (2016); Goldwater Institute's "Right to Earn a Living Act" (2015); and Foundation for Government Accountability's "Freedom to Prosper Act" (2017).

ALEC's 2012 policy was the basis for legislation introduced in Arkansas, Iowa, Minnesota, and Nevada. The Institute for Justice's model was used in Illinois, Maryland, Mississippi, Nebraska, Texas, and Virginia. The Goldwater Institute inspired legislation in Tennessee, and the Foundation for Government Accountability prompted legislation in Oklahoma and West Virginia. Mr. Standley warned: "There is a concerted effort going on for these canned policies. Legislators ran against government waste and government spending and they have an appetite for model legislation that purports to reduce governmental red tape and barriers to entry. In addition, many states have some advocacy groups and legislators looking into licensure elimination. "

Arkansas Board Legal Counsel Mark Ohrenberger reported that four deregulation bills were introduced in the Arkansas legislature. Two were introduced in 2015 and two in 2017, and all were variations of ideas found in the ALEC model. None, however, passed for now.

Nevada introduced three bills, one in 2015 and two in 2017, that were modeled after legislation developed by these groups, Nevada Board Member Nicola Neilon reported. SB 325, which had just failed on June 5, 2017, the bill would have created a task force on modernization of occupational licensing.

NASBA has mobilized in a number of states, including New Jersey, Georgia, Arkansas, and in Virginia, which had a large number of regulatory bills introduced. Virginia HB 1564 came from the Americans for Prosperity model, which calls for eliminating two rules for every new one proposed. That passed, Virginia Board Member Stephanie Saunders said, however, it had no funding.

Mississippi passed a law that created the Occupational Licensing Review Commission to review new regulations, but not existing ones, Mississippi Board Executive Director Andy Wright reported. The Governor is to chair the Commission, which will meet quarterly to review newly-submitted regulations, Mr. Wright explained. This went into effect on July 1, 2017.

Monthly updates on legislation impacting State Boards can be found on NASBA's *Legislative E-News*, on www.nasba.org. ♦

Allen Highlights Cases at Regionals

Although reported case law involving State Boards and artificial intelligence or data analytics is right now sparse, Boards can anticipate ethical and competency issues by looking at some private litigation relating to these areas, NASBA Legal Counsel Noel Allen explained. He summarized two recent cases that may foreshadow public protection challenges in this area: *Welgus* v. *Trinet Grp., Inc.* (2017) and *Sabine Oil & Gas Co.* (2016).

In the *Welgus* case allegations were made in a federal court in California that Trinet and its auditor had failed to detect material weaknesses related to internal controls because of the false claims about the capabilities of "breakthrough data analytics." The court concluded that the facts "only plausibly show that falsity may be conferred by hindsight and there are no allegations that the statements were false when made."

In *Sabine Oil & Gas*, a non-CPA expert's data analytics work was rejected by a federal bankruptcy court because the expert failed to provide the court with any "of the actual data analytics" that the expert reviewed.

Three cases directly related to Accountancy Boards that Mr. Allen called to the Boards' attention were: *Baisden* v. *Bowers* (No.1:16-CV-01651-AWI-SAB, 2016 U.S. Dist. LEXIS 154422); *Kim* v. *Virginia Board of Accountancy* (No. 0288-16-4, 2016 Va. App. LEXIS 312); and *Judicial Review of Final Agency Decision of the NC Bd. of CPA Examiners in the Matters of Belinda L. Johnson* (Wake Cnty.Super. CT. May 1, 2017). Johnson had been disciplined by the NC Board and maintained that because the Board was primarily composed of private actors who were competitors in the marketplace, their order did not constitute state action. The NC Business Court found that exclusive jurisdiction for Sherman Act antitrust claims was to be found in the federal courts and there was no evidence to support Johnson's contention that the Board's order impacted competition among CPAs in the state of North Carolina.♦

A Glimpse of NASBA's Regional Meetings

Eastern Regional Meeting luncheon networking.

New Board Member Orientation – Western Regional Meeting

Jack Dailey reports on peer review letter.

Eastern Regional Directors (L to R) S. Saunders, M. Caldwell, C. Allen and S. Holzman welcome all.

Western Regional Directors (L to R): E. Jolicoeur, N. Neilon, C. Baker and S. Jensen with A. Alexander

Eastern Regional considers education accreditation.

Considering Public Interest and Confidentiality

How CPAs should respond to their client's non-compliance with laws and regulations (NOCLAR) has come under consideration with the AICPA's Professional Ethics Executive Committee's (PEEC) release of its proposed interpretation and NASBA's May 9, 2017 comment letter on that proposal. While the International Ethics Standards Board for Accountants (IESBA) has issued a standard that will go into effect on July 15, 2017 which "provides a pathway to disclosure of suspected NOCLAR to an appropriate authority in the appropriate circumstances, without the ethical duty of confidentiality standing in the way." The PEEC interpretation does not provide such a pathway. The IESBA standard also explains that in such extreme circumstances, when the auditor has resigned based on the situation and is approached by a successor auditor, the resigning auditor "is required to communicate information concerning the identified or suspected NOCLAR to the proposed successor without needing to obtain client consent." PEEC's interpretation does not include that guidance.

PEEC's proposal was outlined for the Western Regional Meeting by AICPA Senior Director for Professional Ethics Lisa Snyder and for the Eastern Regional by AICPA Associate Director for Professional Ethics Jason Evans. NASBA's comments were summarized by NASBA Ethics Committee Chair Janice Gray. Ms. Gray explained, "CPAs need to know that there is protection in the law that would be afforded to them. We do not want them thrown under the bus, but we do not want them to be part of causing irreparable harm." The NASBA letter recommends that the issue be taken up by the Uniform Accountancy Act for further discussion, as the UAA Committee had discussed possibly proposing changes to Section 18 in light of NOCLAR in 2012, and but then decided to table such discussions until the international body had concluded their deliberations.

Discussions during the Regional breakout sessions at each of the Regional Meetings showed many Boards were unfamiliar with this topic and more information is required. ♦

Western Regional Meeting welcome reception on the Coeur d'Alene Resort's terrace.

Western Regional listens to Examinations Review Board's report.

Past Chair D. Burkett and Chair T. Lodden at Western.

Eastern Regional covers UAA changes and drafts.

Janice Gray explains NOCLAR concerns.

K. Bishop praises CPT Student Leadership Conference.

New Software in Exam's Future

The introduction of the revised Uniform CPA Examination has gone extremely well, NASBA Executive Vice President and COO Colleen K. Conrad reported to the Regional Meetings. With AICPA Examination Content Director Richard C. Gallagher at the Western Regional Meeting and AICPA Vice President – Examinations Michael A. Decker at the Eastern Regional, Ms. Conrad reviewed changes made in the latest Examination, how they had been responded to, and changes anticipated in the near future. The volume of testing last spring was very large and a subsequent drop was expected this year. However, Ms. Conrad commented, the "volumes have dropped, as anticipated, but remain respectable."

"We could not have had a better launch," Mr. Gallagher observed. The Examination contained more task-based simulations and an hour had been added to both the BEC and REG sections of the Examination. Mr. Decker pointed out that despite the addition of simulations to BEC, the completion rate for all four sections remained generally consistent. Both simulations and essays "are performing well," Mr. Decker noted.

Score releases on the revised Examination are being held up until late August, which means some candidates may miss out on passing the four parts in the required windows. Ms. Conrad said that the majority of State Boards are handing this with candidates on a case-by-case basis, and all Boards have been asked to notify NASBA of the extensions they make so the Gateway database can be accurately updated.

C. Conrad and R. Gallagher report on the launch of the revised CPA Examination.

New software for the Uniform CPA Examination is currently projected to be launched on April 1, 2018. Mr. Decker said that will enable full use of the 23" screen with a much cleaner design, split-screen capability and the use of Excel. Mr. Gallagher said beta testing of the Examination with the new software is scheduled for the fall of this year.

The State Boards were asked to consider volunteering or suggesting volunteers for the AICPA's content subcommittees for each section of the Uniform CPA Examination. Generally these will require four, two-day meetings per calendar year. The volunteer period is February 1, 2018 – May 31, 2019.♦

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