

Regionals Spotlight Ethics

Professional ethics issues currently being deliberated, the ongoing codification of existing ethics standards and what is meant by the public interest, standard setting for private companies, changes in the Uniform Accountancy Act and Model Rules were all topics presented at the 2011 Regional Meetings, held June 8-10 in Omaha, NE, and June 22-24 in Point Clear, AL. NASBA Chair Michael Daggett (AZ) told the meetings' participants, "We need to hear from you to know we are representing you right. This meeting is not just for fun – but for you to give us feedback. We want to hear if you agree or disagree with the issues presented." Documents from the meetings and videos of the presentations can be found on www.nasba.org.

Ethics and Strategic Professional Issues Committee Chair Gaylen Hansen (CO) took the podium to explain what is being accomplished by the AICPA's Code of Professional Conduct's codification. He explained that each State Board has a version of the AICPA's code, with some states adopting the entire code and others just parts. The current Code has been accumulated

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Nominating Committee Announces Slate

On June 24, 2011 the NASBA Nominating Committee met in Point Clear, AL, and selected the following individuals as their nominees for Directors-at-Large, Regional Directors and Nominating Committee, as reported by Nominating Committee Chair, Billy M. Atkinson (TX):

Directors-at-Large (three-year terms)

- Richard Isserman (Delegate – NY)
- Kenneth R. Odom (Delegate – AL)
- Laurie J. Tish (Associate – WA)

Regional Directors (one-year terms)

- Middle Atlantic – Miley (Bucky) W. Glover (Delegate – NC)
- Great Lakes – Kim L. Tredinnick (Delegate – WI)
- Southwest – Janice L. Gray (Delegate – OK)
- Southeast – Jimmy E. Burkes (Delegate - MS)
- Mountain – Karen F. Turner (Delegate – CO)
- Central – Telford A. Lodden (Delegate – IA)
- Pacific – Raymond Johnson (Delegate – OR)
- Northeast – Jefferson M. Chickering (Delegate – NH)

As announced in March, the Committee selected Gaylen R. Hansen (Associate – CO) as their Vice Chair nominee, who would accede to the office of NASBA Chair 2012-13 should he be elected by the member Boards at the Annual Business Meeting, on October 25, 2011.

Nominations may also be made by any five member Boards if filed with NASBA Chair Michael T. Daggett at least 10 days prior to the Annual Business Meeting. No nominations from the floor will be recognized. 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.

Under the provisions of NASBA's Bylaws, at the 2011 Annual Meeting, Mark P. Harris (Delegate – LA) will accede to the office of NASBA Chair and Mr. Daggett (Associate – AZ) will accede to the office of Past Chair. Continuing to serve for the balance of their unexpired terms: Directors-at-Large (third year of a three-year term) – Walter C. Davenport (Associate – NC), Carlos E. Johnson (Associate – OK) and E. Kent Smoll (Delegate – KS); (second year of a three-year term) – Donald H. Burkett (Delegate – SC), Gaylen R. Hansen (Associate – CO) and Harry O. Parsons (Delegate – NV). Should Mr. Hansen be elected Vice Chair, the Board of Directors will select an individual to fill the remaining two years of his term.

At the 2011 Regional Meetings, half of the Nominating Committee's members and alternate members were selected by four Regions, in accordance with Article VII Section 3 of the Bylaws, with the other half having been selected at the 2010 Regional Meetings.

The newly elected members to the 2011-2013 Nominating Committee are: Southwest – Michael A. Tham (LA) member, James W. Goad (AR) alternate; Mountain – Patrick M. Thorne (NV) member, D. Lynn Smith (ID) alternate; Northeast – Andrew L. DuBoff (NJ) member, James S. Ciarcia (CT) alternate; Great Lakes – Claireen Herting (IL) member, Gary L. Fish (IL) alternate. ♦

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Is Another Standard Setter Needed?

While many have conceded that private company issues have festered in the background of the Financial Accounting Standards Board's policymaking, how this should be changed was debated at NASBA's Regional Meetings. Billy Atkinson (TX), NASBA Past Chair and a member of the FAF/AICPA/NASBA Blue Ribbon Panel on Private Company Standard Setting, told the meetings' participants, "As regulators, we have a legal responsibility to look at the process the Financial Accounting Foundation is going through and respond to their recommendation when they ask for response. Then we should comment as State Boards. Each State Board should look at this issue and then weigh in." FAF Chairman John J. Brennan's appointment of a working group to study the private company standard issue was commended by Mr. Atkinson, "Jack Brennan is doing it right – and that is why we need to support the existing process."

AICPA members have been encouraged to take more immediate action by AICPA President Barry Melancon, when at the Institute's Spring Council Meeting he urged them to write letters to the FAF calling for differential standards and a separate standard-setting body for private companies. In keeping with Mr. Melancon's message, at NASBA's Western Regional Meeting AICPA

Vice President Charles Landes stated: "The Blue Ribbon Panel agreed there is a problem: The debate is how do you effectively and efficiently fix that problem. I am more passionate about this than Barry Melancon because of my 35 years of experience in dealing with private companies." He said: "I believe it is time for a different approach. Ask the FAF to assign another board. It is critical to think about the past efforts: How do we not repeat past failures, and how do we move forward? Express your views –whatever they might be."

Mr. Atkinson stated that before another standard setting board is established, "It has to be for a good reason – and we don't think we are there yet." He commented, "The IFRS are the gorilla on the horizon: We don't want to go down the road when other standards (SME) are more compatible with IFRS." As the former leader of his firm's private company section, having audited small companies for 39 years, Mr. Atkinson said, "We agree there is a problem. There needs to be consideration of users' needs in the promulgation of standards." He also underscored, "There needs to be consistency on how private and public companies account for the same transaction." ♦

Regionals Spotlight Ethics (Continued from page 1)

over a number of years and the intent of the AICPA's codification efforts, a four-year project to be completed by the end of 2012, is to make the Code more user friendly, simpler and more intuitive but without changing its requirements and restrictions, a single source of all relevant guidance that is organized by topic. "In changing the geography, hopefully it will improve the final product," Mr. Hansen said. Continuing convergence with international ethics standards is on the horizon, as the AICPA is a member of the International Federation of Accountants. In some areas the AICPA's existing standards exceed those of the International Ethics Standards Board for Accountants' and in others they are less rigorous. Currently the IESBA is working on a project balancing confidentiality with disclosure, another on inadvertent violations of ethical standards, and a third on conflicts of interest, Mr. Hansen, a member of the IESBA's consultative group reported.

The AICPA's Professional Ethics Executive Committee has created an outreach group to the State Boards, the State Board Advisory Group, to get the Boards' feedback on the process. It includes Dan Sweetwood (NE), Edith Steele (OK), Kent Bailey (OR), Mark Crocker (TN), Rona Shor (NY) and Susan Harris (MS).

In response to a question about the AICPA sharing complaints against CPAs with the State Boards, AICPA Ethics Director Lisa Snyder said the Institute notifies the State Boards about any complaints the AICPA receives that result in their CPA's admonishment, suspension or expulsion from the Institute. The AICPA does not report letters of corrective action to the Boards. A Board can request the AICPA's investigative files, Ms. Snyder said. That information will be released once such a release is approved by the AICPA member.

Mr. Hansen called on PEEC Chairman Wes Williams to discuss network firm criteria, as described in the AICPA Code's ET

101-17 which went into effect on July 1, 2011. "The fundamental rule is, if you are a network firm, you must be independent of clients of other network firms on audits and reviews. For other engagements, a threats and safeguards approach could be put in place," Mr. Williams explained. Firms could cooperate and be in an association, but to be considered "network firms" they would need to be independent and meet other criteria described in 101-17.

At the Eastern Regional meeting, NASBA Ethics Committee member Ray Johnson (OR) explained the difference between an "occupation" and a "profession" in large part is "the obligation to the public, that may transcend a contract with the client." He asked the audience, "What is your firm's balance between respecting the public interest and bringing in revenues?" He questioned if they were evenly balanced. NASBA Past Chair Atkinson said he regularly tells new CPAs: "Their responsibility is individual. Each has to ask himself or herself: Why am I doing this? Does it matter? Am I using the right resources? And is it right?" ♦

NASBA Sells PCS Subsidiary

On June 16, 2011, a Pennsylvania-based private equity group, along with management investors Mark Setash and Jeff Blake, acquired all the outstanding common stock of NASBA's 100 percent owned subsidiary, Professional Credential Services. PCS was established in 1999 in order to allow NASBA to service Boards of Accountancy in states which required service vendors to administer multi-board contracts (i.e., non-accounting boards and agencies) and to provide additional resources for NASBA to provide non-profit mission activities to the Boards of Accountancy. As part of the transaction, NASBA received a 20 percent preferred equity interest in PCS Holding Company, LLC, which now owns all of PCS' outstanding common stock. ♦

President's Memo

A Great Balancing Act

*"You'll get mixed up, of course,
As you already know.
You'll get mixed up
With many strange birds as you go.
So be sure when you step.
Step with care and great tact
And remember that Life's
A Great Balancing Act.
Just never forget to be dexterous and deft.
And never mix up your right foot with your left."
(Excerpt from Dr. Seuss' *Oh The Places You'll Go!*)*



David A. Costello, CPA

I am convinced that Boards of Accountancy and any other group or agency with a mandate for public service, in order to be effective must be relevant, relational, responsive and resilient to challenges and threats. And these four "Rs" of effective regulation are fueled and fired with passion for the public interest. Last month I discussed passionately serving a given purpose which in essence defines our relevance. The second "R" in our four-part series is relationships.

I must admit to a mix of perplexity, frustration and even amusement when I hear people criticize and warn CPA members of Boards of Accountancy that they are inherently conflicted with the accounting profession and must forever live under a cloud of suspicion when deliberating and making judgements about practices and people. Are CPAs any more conflicted than other Board members from other professions, disciplines and backgrounds? Do attorneys, educators, business persons and other public members of Boards not bring bias and prejudice to Board meetings? Yes, I know CPAs are part of the profession and I would assert that in some large measure they are even more critical than non-CPA members. Somewhat like I was when I coached my son in baseball for a number of years. I'm not downplaying the significance of conflicts of interest but "Life's A Great Balancing Act" for Board members - all of them. And balancing is required because of the necessity of relationships.

Managing the perception of conflict is not divorcing oneself from the accounting profession. The strength of a CPA Board member is the current knowledge of the profession, its leadership at all levels, its policies and codes, and the direction it's going. Significant accounting legislation is referenced to AICPA standards and codes, and to pretend to ignore such is not in the best interests of the public. Being a member of the AICPA is a strong positive, not something to be eschewed or minimized. Similarly membership in state societies of CPAs, the National Society of Accountants, and similar organizations keeps one informed about the profession and provides ongoing dialogue useful to the Board and to the public it serves. I feel it is contrary to our public mandate when I hear Boards of Accountancy and state societies do not have a positive relationship. If it's egos that need to be parked for the good of the public, let's find the parking lot. Let's not hide behind the banner of perceived conflicts of interest to justify Accountancy Boards and professional societies not engaging and cooperating for the public good.

Accountancy Boards must have a 3-C relationship with the federal regulators and standard setters. By 3-C I mean cooperation, coordination and collaboration. State accountancy legislation is impacted and influenced by federal regulators and standard setters. Currently, significant issues affecting State Boards are being deliberated including: International Financial Reporting Standards; private company accounting standards; unlicensed foreign auditors practicing in our states. State Boards need to be involved with federal boards and groups both directly and through NASBA.

State boards must cultivate and sustain meaningful relationships with accounting educators. We must be proactive as educators are crucial to engage in our ongoing Board discussions particularly as they relate to curriculum, hours of study, delivery methods, experiential vs in-the-seat learning and the future of accounting education.

Many other relationships are important to the effective regulation of accounting including the business community, legislators, governors and - not the least - the general public itself. If there was ever a time when Boards of Accountancy were reactive, reserved and resistant, that day is long gone. To serve the public mandate which we so proudly embrace, we must with heads held high enlarge our circle of relationships, move boldly without fear of criticism, and proactively and collaboratively work with anyone and any group which will assist us in better serving the public interest.

*"Just never forget to be dexterous and deft.
And never mix up your right foot with your left."*

Ad astra, Per aspera


— David A. Costello, CPA
President and CEO

Allen Sees Boards Under Attack

The way the State Boards are regulating accountancy is under attack from three fronts, NASBA Legal Counsel Noel Allen told the Regional Meetings. First there have been over a dozen cases this year where the respondent to a Board's action has challenged the Board's authority. Second, there have been legislative budget raids taking the Boards' funds. Third, the Federal Trade Commission has assaulted licensing boards in general.

Cases challenging grounds for the Board's discipline have occurred in Alabama, California, Idaho, Missouri, New Hampshire, South Carolina, and Texas. This has been a more litigious year than many, Mr. Allen observed. In the Alabama Board's case, where a CPA was performing attest work but would not comply with the peer review requirement, NASBA had filed an amicus brief.

There are potential defenses against legislative budget raids of the Boards' funds, Mr. Allen advised. These include: State Constitutions that limit the use of funds collected by the Boards; the *Riley v. Forbes* (CA -1924) a case involving an Accountancy

Board; and the Opinion of the Justices in a New Hampshire case (1985) that held money collected by a regulatory agency for one statutory purpose could not be used for another. He observed that some State Boards that have been watching their budgets, resulting in their having surpluses, have had trouble in keeping those funds.

The FTC has challenged North Carolina statutes that established a state board comprised of a majority of licensed dentists, defined the practice of dentistry, and authorized the board to enforce a statutory prohibition against unauthorized practice. The state, by statute, had chosen to regulate through the expertise of the board's licensees, as is the case with many different types of state boards. Mr. Allen said he is confident that the board will ultimately prevail because of the State Action immunity articulated by the Supreme Court 70 years ago pursuant to the 10th Amendment. The case is still working its way through the courts and does represent an unauthorized and unprecedented challenge to all professional licensing boards composed of licensees. ♦

TX Board Alerts SEC Chair

The Texas Board of Public Accountancy has continued its investigation into non-U.S. accountancy firms working in Texas in violation of the Texas Public Accountancy Act and has informed SEC Chairman Mary L. Schapiro and PCAOB Chairman James R. Doty of its findings. As of July 7, the Texas Board had identified as many as 19 unlicensed foreign firms illegally providing attest services in Texas by signing Reports of Independent Registered Public Accounting Firms for Texas-based companies' SEC 10-K filings. Fourteen of those firms have now entered into cease and desist orders with the Board, but they had completed attest services in the past five years for at least 25 publicly-traded U.S. companies headquartered in Texas.

William Treacy, executive director of the Texas Board, posed two questions to SEC Chair Schapiro in his July 7 letter:

"SEC regulations limit the provision of attest services to publicly traded companies to 'certified public accountants' [SEC Regulation S-X, Rule 2-01(a)]. Why is the SEC accepting filings

containing reports of independent audit firms which are staffed entirely by non-U.S. accountants?"

"SEC regulations permit the SEC to recognize as certified public accountants only those persons who are in good standing with their home jurisdictions [SEC Regulation S-X, Rule 2-01(a)]. Why is the SEC permitting filings that contain the reports of audit firms violating the laws and rules of their home jurisdictions by engaging in illegal activities in Texas?"

Mr. Treacy advised Ms. Schapiro that the Board will inform the SEC of the outcomes of the remaining investigations and any similar investigations that the Board may undertake. He wrote to PCAOB Chairman Doty: "I believe that any effort the PCAOB could make to advise foreign accountancy firms of the need to inquire into the licensing requirements of Texas, as well as the other states, would go a long way in eliminating future violations." He noted Texas investigations have found over 100 foreign firm offices may have performed attest services in at least 30 states. ♦

Boards Urged to Seek Independence

Boards can be more effective if they are independent, State Board Relevance and Effectiveness Committee Chair Bucky Glover (NC) told breakout session participants at the Eastern Regional. "Our Committee is here not to move you to complete independence, but to help you with moving toward independence," he explained. "Independence" for a State Board is the ability to control the licensing process, competency, enforcement and to work effectively, Mr. Glover stated, and his Committee is gathering information on which states are working towards independence, along with which states are in jeopardy of losing their independence.

"The State Board's job is public protection," said Rick Sweeney, executive director of the Washington Board and a member of the Committee. "We should recognize that our job is not to license CPAs but to prepare people to carry that license and, if they get out of whack, to enforce. The Board needs to be independent and

control its own money so it can react quickly," he told the Boards' representatives.

NASBA Executive Vice President Ken Bishop told the Eastern Regional Meeting's participants, "Incoming NASBA Chair Mark Harris and I are interested in developing a well-defined legislative office in NASBA with the ability to provide professional support to State Boards with legislative efforts. This would include designated staff and a budget to hire lobbyists in states that have high priority legislation, a team with the resources that can help State Boards in trouble." He stated: "State Boards are much stronger if they are well funded and have enough autonomy to have adequate staff and resources to protect the public. Additionally, the proposed legislative office would have the ability to monitor and participate in federal legislation discussions that impact accountancy. We are hopeful that we can begin developing the concept by this fall." ♦

International Exam Registration Successful

On May 2, 2011, within 60 seconds of the launch of the international examination application process allowing CPA Examination candidates to test outside the United States, the first candidate registered to take the Uniform CPA Examination in Tokyo, NASBA Executive Vice President and COO Ken Bishop announced at the Regional Meetings. By the time he addressed the Eastern Regional on June 23, nearly 1,000 such candidates had registered. "International CPA candidates are not a new phenomena. For the last ten years the number of foreign applicants has been growing, with over 10,000 individual candidates taking the examination in the U.S. in 2010," Mr. Bishop reported.

"If the U.S. CPA profession did not step up today and make the 'CPA' credential available and relevant globally, someone ten years from now would be asking who was asleep at the switch," Mr. Bishop stated. He noted there already are other organizations offering accounting credentials in the Middle East and Japan, where the first international CPA testing sites are located. The examination will be delivered in Prometric test sites that are of the

same quality, with the same security measures, as those centers are in the U.S., he assured the Boards. He has visited all the sites for the CPA Examination in Japan, many in the Middle East, and will have been to all of them by the end of the year. Negotiations for a site in South America are going on now.

Candidates who take the examination outside the United States must agree to be under the jurisdiction of a State Board, so they must come to the Board to participate in any investigation that may arise, Mr. Bishop explained. "NASBA will absolutely assist the Boards with international issues. We will be there for you with the resources you need to protect your citizens," he said. This could include providing investigative support and funding. NASBA is considering ways for candidates who take the CPA Examination outside the U.S. to obtain the necessary experience for licensure. These CPAs outside the U.S. will also need to meet the State Boards' continuing professional education requirements and NASBA has started to encourage CPE Registry sponsors to explore this market. ♦

Regional Directors Lead June Meetings



The Western Regional Meeting had 31 State Boards represented with 138 participants, and the Eastern Regional included representatives from 35 Boards with 159 participants. Pictures clockwise from top left corner: Ted Lodden (IA), Central Regional Director; Laurie Tish (WA), Pacific Regional Director; Karen Turner (CO), Mountain Regional Director; Janice Gray (OK), Southwest Regional Director; Bucky Glover (NC), Middle Atlantic Regional Director; Ken Odom (AL), Southeast Regional Director; Jeff Chickering (NH), Northeast Regional Director; Kim Tredinnick (WI), Great Lakes Regional Director.

Hansen Addresses SEC Roundtable

GAAP is integral to the State Boards' complaint-based enforcement system, the yardstick for enforcement, NASBA Director-at-Large Gaylen Hansen reminded the Securities and Exchange Commission's July 7, 2011 roundtable discussion on the potential impact of U.S. adoption of International Financial Reporting Standards. The more sets of standards there are, the more difficult enforcement becomes, he observed, and the more difficult comparability of financial statements becomes.

"The case must be made that IFRS is not only a good idea, but that it is clearly superior to what we have," Mr. Hansen told the SEC discussion. "Considering the significant risks, the rewards must realistically offer superior and achievable benefits," he stated. Mr. Hansen stressed the State Boards and NASBA are not vested in whether or not IFRS goes forward: "Our position is based solely on the national interest."

Three panels were involved in the SEC's event. The first represented financial information users, the second small businesses and the third regulators. Starting off the discussion SEC Chairman Mary Schapiro stated: "The major decision for this agency is to be guided by the investors' needs. Our primary focus is to insure investors have the information they need."

Gregory Jonas, managing director of Morgan Stanley, supported the SEC staff's "condorsement" approach to IFRS (see *sbr* 6/11). He said "it rejects the status quo" and permits U.S. interpretation of IFRS. Similarly, Mark LaMonte, managing director of Moody's Investors Service, told the SEC panel that getting to a single set of accounting standards is very important to his firm and warned that the U.S. can't become isolationist, but needs to be part of the IFRS process.

Speaking for a large group of investors, Mary Morris, investment officer for the California Public Employees' Retirement System, said they would offer their support to the SEC staff paper as convergence must move forward. However, David Larsen, managing director of Duff & Phelps noted: "There has been a

healthy tension between the IASB and the FASB that has created better standards in the last five years." He sees standard setting at a crossroads and it is "unlikely the FASB can exercise the same influence they have in the past."

"Process, process, process: The IASB needs processes similar to the FASB's, continuous and transparent," commented Kevin Spataro, senior vice president of The Allstate Corporation. Neri Bukspan, executive managing director of Standard and Poor's, stated: "The role of accounting is not to depict economic reality; it is to convey financial information. The role of accounting is to provide enough information for investors to make adjustments they need to make."

With the adoption of IFRS, "there will be real pain," Ron Zilkowski, chief financial officer of Cuisine Solutions, told the panel. "At the end, the world benefits at a price for small filers," he observed. His sentiments were echoed by Charlie Rowland, chief financial officer of Viropharma: "From a corporate viewpoint, there is not a lot of short-term or long-term benefit we would realize." Shannon Greene, chief financial officer of Tandy Leather Factory, agreed: "There would be no benefit of IFRS for our corporation. It will just be painful for us."

When the smaller public companies were asked by SEC Chief Accountant James Kroeker if IFRS was something their clients were requesting, he was told it was not. Mr. Zilkowski said his company only had one such request. David Grubb, partner of Plante & Moran stated: "Investors are more focused on a clean opinion. They focus on cash flow."

"There remain a lot of structural issues at IASB, such as funding and independence, and we have already seen delays in their standard setting," Bill Yeates, national director of auditing and accounting for Hein & Associates, said. "We hope the SEC will give us at least another year or so before they establish a timeline for IFRS adoption – even another two years. There are a lot of risks in moving too quickly." ♦

State Board Report

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