

NASBA State Board *Report*

A Digest of Current Developments Affecting State Accountancy Regulation

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CPE Conference Highlights QAS

As of March 1, 2014, sponsors of self-study courses that wish to remain on the NASBA National Registry of CPE Sponsors will need to qualify their programs under the new “QAS Self Study” designation. This is in line with the Statement of Standards for Continuing Professional Education Programs, as revised in January 2012, and is a significant change in requirements for those sponsors who previously had their self-study courses listed on the Registry but not under the QAS (Quality Assurance Service), which calls for an in-depth evaluation of a sample program.

As of August 15, 2013, only 16 of the Registry’s self-study course sponsors held the QAS designation, with another 48 having a transition application in process, and 85 who had not yet acted to make the transition or who had been denied a transition application, NASBA CPE Committee Chair Bucky Glover (NC) reported to the National Registry Summit, held September 9-10 in Houston, TX.

Approximately 120 CPE sponsor representatives gathered for the Summit. Pre-conference workshops were held for new sponsors as well as for those in the QAS transition process. ♦

UAA Firm Mobility Language ED Out

The NASBA Board of Directors and the AICPA Board of Directors have each approved for exposure firm mobility language that would be included in the Uniform Accountancy Act. The vote to expose came on September 25, when the NASBA Board held a special conference call to discuss the proposed language. A few days later the results of the AICPA’s e-mail polling of its Board also resulted in approval to distribute the language for comment. There will be a 90-day comment period ending in January, with the proposed language posted on both the NASBA.org and AICPA.org websites. A state’s enactment of this language would enable firms that are licensed in at least one state and that meet the UAA’s ownership and peer review requirements to temporarily practice across state lines without a permit. Firms with offices in a state would need to be licensed in that state.

NASBA President Ken L. Bishop pointed out that recently there seems to have been some misunderstanding regarding the issue. The concept of firm mobility is not new. It was first proposed in 2006 when mobility was recommended by the UAA Committee and the exposure draft containing both individual and firm mobility was approved by the NASBA and AICPA Boards. However, when the NASBA Mobility Task Force was considering legislative activity, it was determined that the draft did not adequately delineate substantially equivalent firms. NASBA and AICPA leadership then agreed to withdraw firm mobility from the draft at that time, but promised to revisit the provision when the equivalency issues were resolved. The UAA Committee has spent approximately two years developing the firm mobility language.

“Having uniform firm mobility language in the UAA for the states that want

(Continued on page 2)

NASBA/AICPA IQAB Meets

Though negotiations continue for the development of new mutual recognition agreements, the October 4, 2013 meeting of the NASBA/AICPA International Qualifications Appraisal Board in Nashville was unable to offer any new agreements for the State Boards’ consideration. Instead, IQAB voted to request the NASBA and AICPA Boards of Directors formally reach out to the U.S. Trade Representative for assistance in addressing other countries’ regulators.

“We have a couple of issues that USTR can help us with as they pursue their trade negotiations with other nations,” explained IQAB Chair Telford Lodden (IA). Due to the Federal Government’s shutdown, the USTR was not represented at the October 4 meeting, although a director had intended to be present. “As negotiators are working on trade agreements at this time, we think bringing up these barriers to professional mobility now is appropriate.”

Despite recognition that CPA firms and experienced professionals seek to have global mobility, crafting agreements that facilitate that professional mobility has proved to be difficult. IQAB Chair Lodden will address the NASBA Annual Meeting to describe some of the challenges in this arena.

Professors Belverd Needles and Gert Karreman presented the results of their research, supported by NASBA, to the IQAB meeting. They have developed a benchmarking process based on International Education Standards that should

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to adopt it is critical - but it is not something that we are going to actively campaign for in any state that is not supportive. We realize that each jurisdiction has to consider if and when this would be right for them,” Mr. Bishop said. As there are now 14 states that do not require a visiting CPA firm to obtain a permit even when their staff members are performing attest services, there is ample evidence as to the impact of firm mobility and there does not appear to be any increase in disciplinary problems attributable to this policy, he noted.

UAA Committee Chair Kenneth R. Odom (AL) told the NASBA Board on September 25: “We have two exposure drafts out there for Boards to consider. One on expanding the attest definition and another we are now going to launch on firm mobility. The proposals fit together, but they do not require each other to be effective. We are leaving that for the states to decide.” Mr. Odom will address the NASBA Annual Meeting to report on the comments received. The comment period for the “attest” exposure draft ends on October 17.

NASBA Pacific Regional Director Donald F. Aubrey (WA) told the NASBA Board that states need to know what the impact of firm mobility will be on them before they can endorse the concept. In response, NASBA President Bishop said that the impact is expected to be specific for each state and he offered NASBA’s assistance to any states that ask for help is determining the provision’s meaning to them. He assured the Board of Directors that neither NASBA nor the AICPA would engage in a campaign for all states to begin to adopt firm mobility. If approved for inclusion in the UAA, the language will be there to provide a model for all states to have a consistent approach to such legislation.

NASBA Chair Gaylen R. Hansen (CO) pointed out that the vote of the NASBA Board of Directors was to expose the language for comments. It was not a referendum on the concept of firm mobility. ♦

ARSC Prepares 3 Standards for Exposure

By the end of October, the AICPA’s Accounting and Review Services Committee (ARSC) expects to release for exposure three new standards that should be of interest to State Boards, NASBA Director-at-Large Janice Gray(OK), a member of ARSC, reported. These include: 1- a revised compilation standard that provides requirements and guidance for a compilation engagement of historical financial statements; 2- a standard that provides requirements and guidance for only preparing financial statements, not performing a compilation, review or audit; and 3- a standard that provides requirements and guidance for an accountant permitting his or her name to be used in a report, document or written communication when they did not issue a compilation, review or audit report.

Ms. Gray, who chairs NASBA’s Compliance Assurance Committee, will be working with NASBA’s Regulatory Response Committee and Executive Committee on commenting on these forthcoming standards when they are released. ♦



Top row (left to right): Roberto Resa, Manuel Sanchez y Madrid, Ken Bishop, Bill Treacy, Carlos Johnson and Ed Barnicott. Bottom row (left to right): Gabriel Llamas, Criseyda Navarro and Gaylen Hansen.

NASBA/AICPA IQAB Meets (Continued from Page 1)

assist regulators in determining similarities among international professional accounting designations. Drs. Karreman and Needles stressed their work is ongoing and benefits from the input they are receiving from IQAB and other interested parties.

In conjunction with the IQAB meeting, Roberto Resa, Gabriel Llamas and Manuel Sanchez y Madrid, representatives from the Instituto Mexicano de Contadores Publicos, met with NASBA Chair Gaylen Hansen, Vice Chair Carlos Johnson, President Ken Bishop and staff on October 3. They agreed that more should be done to let professionals know there is a mutual recognition agreement with the IMCP. It was suggested that this could be accomplished via a link between the Instituto’s Web site and the NASBA and AICPA sites, where Mexican professionals can find instructions for applying for the International Qualifications Examination (IQEX). There has been a mutual recognition agreement with the IMCP since 2002, but few Contadores Publicos Certificados have taken the IQEX. According to statistics presented to the IQAB meeting by NASBA Examination Services Director Patricia Hartman, through the first three quarters of 2013 only four Contadores Publicos Certificados applied to take the examination. ♦

IRS Appeals for Preparer Regulation

The Internal Revenue Service is not ready to give up on its program to regulate paid tax preparers, including a mandatory program for periodic examinations and continuing professional education. In January 2013, District Court Judge James E. Boasberg ruled that the regulation program exceeded the IRS’s statutory authority, in a case brought in March 2012 by three tax preparers, Sabina Loving, Elmer Killian and John Gambino, with the assistance of the Institute for Justice, *Loving v. IRS* (see *sbr* 5/12 and 2/13). On September 24, 2013, oral arguments in the IRS’s appeal were heard.

The three-judge U.S. Circuit Court panel, David Sentelle, Brett Kavanaugh and Stephen Williams, hearing the appeal questioned the Justice Department’s Tax Division lawyer Gilbert Rothenberg about how the IRS determined that based on the Horse Act of 1884 it had the authority to regulate paid tax preparers who cannot represent tax payers before the IRS. The Circuit Court’s ruling is not expected for several months. ♦

Chair's Memo

Rock Solid

Soon we'll come together again at our Annual Meeting to break bread, renew relationships and recharge our batteries for a new NASBA year. As Chair, I'll report on my stewardship, to include some of what is below.

In 2002, when I joined the Colorado State Board of Accountancy and began attending NASBA meetings, the profession was reeling from Enron and WorldCom and grappling with a new kind of regulator, the Public Company Accounting Oversight Board. Meanwhile, NASBA and State Boards seemed focused primarily on licensing, the CPA exam and something called "mobility." But for the most part, State Boards appeared quite comfortable looking elsewhere for guidance on practice standards. To put it politely, we were expected to make sure licenses were properly processed, complaints handled, fees collected and all things put in good order. But as a newbie, my impression was that NASBA and State Boards tended to rubber-stamp practice standards as they rolled out. My how things have changed!



Gaylen R. Hansen

NASBA has clearly entered a new era of relevance. The Association's sphere of influence is no longer limited to more routine matters. This past year we have seen high profile appointments of past NASBA leaders. We continue to have many appointees serving on other critical boards and committees, both internal and external. They are shaping expectations about education, examination, attest and non-attest standards and, importantly, ethics. These good people serve quietly and often without much fanfare, if any. I am so appreciative of their service.

During my induction, I was asked frequently about my vision for the year. I lost a lot of sleep over that question. Centuries ago Paul famously said, "For now we see through a glass, darkly." That's how I felt, but like Johnny Nash sang in 1972, "I can see clearly now."

Without a doubt, at the top of my "seeing clearly" list is the matter of private financial reporting. Without rehashing the play-by-play of where NASBA ended up on this matter, an important challenge was to come to grips with our unique calling as regulators. While many of us serve clients or employers in our "day jobs," we obviously wear a different hat in our regulatory roles. As regulators, we had to find a rational, measured way to deal with non-authoritative practice that is acceptable. NASBA did so in a spectacular way. Without endorsing non-authoritative practice, public protection concerns were identified and resolved to our satisfaction. Importantly, this was done thoughtfully and respectfully, in an assertive approach of which I am particularly proud.


Last year, NASBA committed to closely monitor the activities of the newly formed Private Company Council (PCC), and we have had representatives at every one of its meetings. At the "Ivory Tower" called the Financial Accounting Standards Board (FASB) in Norwalk, a new culture is emerging as private company reporting receives the attention it deserves. This is fulfilling the vision for which many of us longed. I have attended several PCC meetings and can report that excellent progress is being made. In retrospect, NASBA's decision to support the FASB as the sole standard-setting body authorized to promulgate Generally Accepted Accounting Principles was the right choice. In fact, that decision was rock solid.

The private accounting debate brought us face-to-face with the notion of "authority" for all standards. What is authoritative and who gets to decide, and what about enforceability? We haven't figured all of this out yet – and a standard-setting task force was appointed that will continue to study these difficult questions. Part of their charge is to question our current standard-setting role versus what it should be. This is a complex issue that will require our best thinking to make sure we stay on solid ground.

There were many other important issues we dealt with this year. A broadened "attest" definition was forged, uniform language for firm mobility is being developed and a revision of compilation service standards is underway that will retain important public protection concepts, such as transparent reporting and independence.

It has been my great privilege and honor to serve as your chair. I worked closely with our President and CEO Ken Bishop, and Executive Vice President and COO Colleen Conrad. After seeing them in action in their first full year, I can absolutely say the right leaders were selected to drive NASBA to the "next level" of relevance, a theme of our Annual Meeting. Collectively, and standing on the shoulders of those great leaders preceding us, we were vigilant. We did our very best to protect the public interest. My heartfelt thanks go to them, the rest of the staff, and all you volunteers for your support and willingness to serve faithfully at my side.

Rubberstampum finem seculi!


— Gaylen R. Hansen, CPA
Chair

SEC to Pursue Discipline of Individuals

The Securities and Exchange Commission will continue to “focus on financial statement and accounting fraud,” SEC Chair Mary Jo White told the Council of Institutional Investors on September 26. She stated: “In many ways, the most visible face of the SEC is what we do to enforce the law. After all, most Americans do not see how well our experts examine a financial form, review a regulatory filing, or conduct economic analysis of a complex rule.”

The SEC “must be aggressive and creative in the way we use the enforcement tools at our disposal,” Chair White told the investors group. “That means we should neither shrink from bringing the tough cases, nor fail to bring smaller ones. When we detect wrongdoing, we should consider all the legal avenues to pursue it. If we do not have the evidence to bring a case charging intentional wrongdoing, then bring the negligence case that does not require intent.”

Noting that in 2012 the SEC changed the no-admit-no-deny language it applied to settlements with parties that pled guilty in a related criminal action to explicitly reference admissions, Ms. White said she has concluded other cases not involving parallel criminal cases also require acceptance of responsibility. Under the SEC’s new approach, public admission of wrongdoing will also potentially be required in four types of cases:

1. “Cases where a large number of investors have been harmed

or the conduct was otherwise egregious.

2. “Cases where the conduct posed a significant risk to the market or investors.
3. “Cases where admissions would aid investors deciding whether to deal with a particular party in the future.
4. “Cases where reciting unambiguous facts would send an important message to the market about a particular case.”

Chair White said she supports legislation in Congress that would allow the SEC to seek penalties based on either three times the ill-gotten gains or the amount of investor losses, whichever is greater. That legislation would also allow for additional penalties if the wrongdoer is a repeat offender. Besides strong penalties, she favors requiring companies to also adopt measures that make the wrong less likely to occur again.

“Another core principle of any strong enforcement program is to pursue responsible individuals wherever possible,” Chair White said. The SEC staff should look first at individual conduct, rather than starting to look at the entity as a whole. “When people fear for their own reputations, career and pocketbooks, they tend to stay in line,” she observed.

Investors will have more confidence in the markets if the SEC is perceived as “the tough cop that everyone rightfully expects,” she told the meeting. ♦

State Board Report

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