



DEPARTMENT OF CONSUMER AFFAIRS
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DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY

FINAL

MINUTES OF THE
MAY 15, 2009
BOARD MEETING

The Sacramento Marriott Rancho Cordova
 11211 Point East Drive
 Rancho Cordova, CA 95742
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Roll Call and Call to Order.

President Robert Petersen called the meeting to order at 8:29 a.m. on Friday, May 15, 2009 at the Sacramento Marriott Rancho Cordova. The Board convened into closed session at 8:31 a.m. to deliberate Agenda Item I.A. – G. The meeting reconvened into open session at 9:25 a.m., and adjourned at 3:18 p.m.

Board Members

May 15, 2009

Robert Petersen, President	8:29 a.m. to 3:18 p.m.
Manuel Ramirez, Vice President	8:29 a.m. to 3:18 p.m.
Lorraine Hariton, Secretary-Treasurer	Absent
Sally Anderson	8:29 a.m. to 3:18 p.m.
Rudy Bermúdez	8:40 a.m. to 12:08 p.m.
Michelle Brough	8:29 a.m. to 3:18 p.m.
Angela Chi	8:29 a.m. to 3:18 p.m.
Donald Driftmier	8:29 a.m. to 3:18 p.m.
Herschel Elkins	8:29 a.m. to 3:18 p.m.
Louise Kirkbride	8:29 a.m. to 3:18 p.m.
Leslie LaManna	8:29 a.m. to 3:15 p.m.
Marshal Oldman	8:29 a.m. to 3:18 p.m.
David Swartz	8:29 a.m. to 3:18 p.m.
Lenora Taylor	8:29 a.m. to 3:15 p.m.
Stuart Waldman	Absent

Staff and Legal Counsel

Marisa Becerra-Garcia, Executive Analyst
Patti Bowers, Executive Officer
Veronica Daniel, Executive Support Analyst
Gary Duke, Legal Counsel, Department of Consumer Affairs
Dominic Franzella, Coordinator, Renewal & Continuing Competency
Dave Hansen, Staff Information Systems Analyst
Scott Harris, Deputy Attorney General, Department of Justice
Lauren Hersh, Information and Planning Officer
Vincent Johnston, Analyst, Executive Unit
Larry Knapp, Supervising Investigative Certified Public Accountant
Sara Narvaez-Smith, Analyst, Enforcement Division
Gregory Newington, Chief, Enforcement Division
Deanne Pearce, Acting Chief, Licensing Division
Dan Rich, Assistant Executive Officer
Michele Santaga, Analyst, Enforcement Division
Jenny Sheldon, Coordinator, Renewal & Continuing Competency
Theresa Siepert, Manager, Administration Unit
Matthew Stanley, Legislation/Regulation Analyst
Kathy Tejada, Analyst, Enforcement Division
Liza Walker, Manager, Examination and Practice Privilege Units

Committee Chairs and Members

Harish Khanna, Chair, Administrative Committee
Tracy Garone, Chair, Qualifications Committee

Other Participants

Kenneth Hansen, KPMG, LLP
Carl Olson
Richard Robinson, E&Y, DT, PWC, KPMG, GT
Gregory Santiago, Legislative Analyst, Department of Consumer Affairs (DCA)
Hal Schultz, California Society of Certified Public Accountants (CalCPA)
Paul Stroub, CPA, Member of the Public
David Tolkan, California Society of Accountants

- I. Petitions, Stipulations, and Proposed Decisions [Closed Session Government Code Section 11126(c)(3)] Petition Hearings are Public Before the Board with a Subsequent Closed Session.

Mr. Duke stated that pursuant to Government Code Sections 11125.4 and 11126(e)(1), the case of Charleen Bell vs the California Board of Accountancy was added to the closed session portion of the agenda.

A. Hilario Peña, Jr. – Petition for Reconsideration.

The Petition in the matter of Hilario Peña, Jr. was adopted.

B. Richard P. Rosenthal – Petition for Reconsideration.

The Petition in the matter of Richard P. Rosenthal was adopted.

C. Richard P. Rosenthal – Stipulated Surrender of License and Order.

The Stipulated Surrender in the matter of Richard P. Rosenthal was adopted.

D. Kwang-Ho Lee and Kenny H. Lee CPA Group, Inc. – Decision After Non-Adoption of Proposed Decision.

The Decision in the matter of Kwang-Ho Lee and Kenny H. Lee CPA Group, Inc. was adopted.

E. David M. Winings and David M. Winings, CPA, An Accountancy Corporation – Default Decision.

The Decision in the matter of David M. Winings and David M. Winings, CPA, An Accountancy Corporation was adopted.

F. Richard Price and Reuben E. Price Accountancy Corp. – Stipulated Decision.

The Decision in the matter of Richard Price and Reuben E. Price Accountancy Corp. was adopted.

G. Gordon Alan McKinney – Stipulated Settlement.

The Stipulated Settlement in the matter of Gordon Alan McKinney was adopted.

II. Public Comments.

No public comments were received.

III. Report of the President

A. Update on Assembly Bill (AB) 138.

Mr. Petersen reported that he testified before the Assembly Business and Professions (B&P) Committee on April 28, 2009. He further reported that the bill passed with one vote in opposition by Assembly Member Pedro Nava and moved to the Assembly Appropriations Committee, where it

was placed on the Suspense File.

B. Report on Appointments to Committee for Review of the Board Member Guidelines and Procedure Manual.

Mr. Petersen appointed Ms. LaManna, Mr. Oldman, as well as himself to participate on a committee to review the Board Member Guidelines and Procedure Manual, with Mr. Oldman as chair of the committee, and encouraged additional Board member participation.

Mr. Bermúdez stated this issue should be studied at the Board Retreat in October 2009. Ms. Bowers reported that the Governor's Office strongly recommended state agencies select locations that could not be viewed by the public as retreat/resort in nature. She also reported that DCA rescinded its approval for the excess lodging request that was submitted, and Board staff is currently working to determine an alternative locale for the 2009 Board Retreat.

Mr. Bermúdez suggested the Board utilize state facilities, such as those in Asilomar, as well as the University of California facility at Lake Arrowhead.

Mr. Petersen expressed his gratitude to Ms. LaManna, Ms. Kirkbride, Ms. Anderson, Ms. Chi, Mr. Driftmier, and Mr. Swartz for meeting with legislators on May 13, 2009, and encouraged other Board members to do the same.

Ms. LaManna stated her appreciation for Mr. Franzella, Mr. Stanley and Ms. Bowers for the pre-training session that was coordinated to facilitate interactive discussions with legislators. She stated that she felt entirely prepared and encouraged Board members to attend.

IV. Report of the Vice President.

A. Extension of Administrative Committee (AC) Chair Harish Khanna's Term.

It was moved by Mr. Bermúdez, seconded by Mr. Oldman and unanimously carried by those present to approve the extension of AC Chair Harish Khanna's term through 2010.

V. Report of the Secretary/Treasurer.

A. Third Quarter FY 2008/2009 Financial Report.

The third quarter fiscal year 2008/2009 financial report was provided (**see Attachment 1**).

B. Update on the Governor's Proposed Budget.

There was no report on this agenda item.

VI. Report of the Executive Officer.

A. Report of Existing Projects.

Ms. Bowers provided a copy of the existing projects currently assigned to Board staff (**Attachment 2**).

B. Update on the Enforcement Program.

Ms. Bowers extended her appreciation to Mr. Khanna for his agreement to remain as Chair of the AC. She further stated that institutional knowledge will become more important, with the retirements of four individuals within the Enforcement Program, including Mr. Newington, Chief of the Enforcement Program.

She further reported that she and Mr. Newington met with Mr. Ben Frank, the consultant who was selected to perform the Enforcement Program study. She reported that Mr. Frank will begin his study of the Enforcement Program shortly, and will present an update before the Board in the near future.

She also stated that she had not yet spoken with Mr. Gilb, Director of the Department of Personnel Administration and, therefore, had no update.

Ms. Kirkbride stated that Mr. Frank performed work for the Contractors' State License Board and was highly regarded.

Mr. Bermúdez inquired as to the possibility of retaining those retiring individuals as retired annuitants to stem the loss of institutional knowledge. Ms. Bowers stated this is one of many strategies currently under consideration.

C. Educational Presentation – Enforcement and Discipline.

Mr. Newington provided an overview of the Enforcement Program (**see Attachment 3**).

Ms. Taylor inquired as to respondents' rights upon non-adoption of proposed decisions. Mr. Duke stated that respondents are invited to present final argument, possibly followed by a period for reconsideration. He further stated that if legal basis exists, the case may proceed to court.

D. Discussion of the Board's Options to Protect Web Information.

Mr. Hansen stated there are three available methods to prevent a web-crawler from accessing and caching Board Web site information, which include using robot exclusion standards, scanning documents in PDF format to contain image files, and by employing controlled access using user password authentication.

Board staff recommended the controlled access scheme using "captcha verification" as the best choice to balance the ease of public access while providing the Board with effective means to prevent the automated caching of these documents on the Internet.

Mr. Ramirez inquired into the time and costs related to implementing either of the three options. Mr. Hansen reported there would be no cost or time constraints on implementing robot exclusion standards or scanning documents in PDF, and also reported that it would take approximately one to two months, dependent upon passage of the state budget, to employ controlled access using "captcha verification", which could cost approximately \$2,000.

Ms. Kirkbride pointed out that these documents may still be posted on the Internet by outside parties, and recommended conducting a test to understand the limits of technology.

Mr. Swartz inquired into the security of using the controlled access scheme using "captcha verification". Mr. Hansen reported that information would be 95 percent secure. He further stated that a nonprofit organization operates the Internet archive, which contains snapshots of the Board's Web site. Mr. Hansen stated that although information is kept indefinitely, there are procedures in place which allow for the information to be pulled.

Ms. Brough stated that posting pending accusations may pose due process concerns, and felt that the "captcha verification" option would be the most secure. Mr. Elkins pointed out that accusations are public records. Ms. Chi stated her belief that "captcha verification" would be the best method by offering consumer protection and transparency at the same time.

Mr. Ramirez stated his concern regarding withdrawn accusations being included on the Internet. Mr. Newington reported there were nine pending accusations withdrawn throughout the previous 10 year period, four of which were withdrawn due to the respondent's death prior to conclusion of the accusation, four were withdrawn by the Board's Executive Officer, and one went before an Administrative Law Judge (ALJ) where the ALJ ruled against the Board and the Board accepted the decision.

Mr. Olson stated his belief that any attempts to hide public documents from the public is a bad idea. Mr. Petersen stressed that it is not the Board's intent to hide documents from the public, but to ensure the due process rights of those individuals who have had accusations against them withdrawn.

E. Board Discussion of Commenting on Exposure Drafts.

Mr. Rich introduced Vincent Johnston, the new Associate Governmental Program Analyst assigned to the Executive Unit.

He further provided a memorandum regarding options for Board comment on exposure drafts (**see Attachment 4**).

Mr. Swartz stated his belief that the Board should not review exposure drafts and should focus solely on regulatory issues.

Ms. Chi stated her belief that the Board should take the opportunity to comment on exposure drafts in order for the Board to weigh in on issues. She suggested the formation of a task force, or recruiting Board members with knowledge of a specific area to participate.

Ms. Anderson stated her belief that the Board should not comment on all exposure drafts, with the exception of those dealing with enforcement and licensing issues.

Mr. Driftmier stated his belief that the Board should not comment on exposure drafts. He stated that licensees have an opportunity to respond on an individual level, and that the Board should be concerned with regulatory issues. He further pointed out that a majority of Board members are involved with the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA), and are provided the opportunity to weigh in on issues.

Mr. Ramirez requested a listing of governing body pronouncements so individual Board members may personally weigh in on issues.

F. Update on the California Automated Travel Expense Reimbursement System (CalATERS).

Ms. Siefert reported the DCA is now using CalATERS, which is an electronic system of filing for reimbursement of travel costs operated by the State Controller's Office to enhance the process for reimbursement (**see Attachment 5**). She further stated that Barbara Coleman will continue to receive the travel expense claim worksheets from Board members, which she will then electronically send to Mr. Petersen for approval, and checks will be mailed directly to members. Ms. Siefert

further reported that Mr. Petersen and Mr. Ramirez are authorized approvers of travel claims, and received training on the new system on May 14, 2009.

G. Discussion of Topics to be Addressed at the Board's 2009 Retreat.

Ms. Siepert provided a handout of the list of educational courses that were offered at DCA's Professionals Achieving Consumer Trust (PACT) Summit, as well as educational topics for consideration (**see Attachment 6**).

Mr. Bermúdez stated that he would like presentations by the Securities and Exchange Commission (SEC) and the Public Company Accounting Oversight Board (PCAOB), the findings of the enforcement program study, Board committee roles and functions, and external/internal communications to be reviewed at the Board's retreat.

Mr. Elkins suggested calling this a "special meeting", instead of a "retreat".

Ms. Kirkbride stated that she would like to consider the issue of mobility. Ms. Anderson suggested a presentation by NASBA on enforcement and how other states deal with the issue of mobility to be considered at the retreat.

Mr. Bermúdez cautioned against placing too much on the agenda.

Mr. Swartz suggested consideration of the criteria for the general license. Mr. Elkins suggested consideration of whether the general license should exist.

Mr. Petersen encouraged members of the public to suggest topics for consideration.

VII. Committee and Task Force Reports.

A. Report of the Committee on Professional Conduct (CPC).

1. Report of the May 14, 2009 CPC Meeting.

Ms. Anderson reported the CPC approved the draft minutes of the March 19, 2009 meeting, and provided a report on the agenda items listed below.

2. Update on Regulatory Language Related to Peer Review.

Mr. Franzella indicated that at the CPC meeting, staff noted additional time was needed to review AICPA's and CalCPA's suggested

amendments (**see Attachment 7**).

3. Staff-Proposed Amendments to AB 138 – Peer Review.

Mr. Franzella provided an overview of the staff-proposed amendments (**see Attachment 8**). He noted that Attachment 1 to the memorandum dealt with who issues a peer review, while Attachment 2 dealt with the appeal process for Board-recognized peer review program providers who are either denied recognition or have Board recognition rescinded.

It was moved by Mr. Bermúdez, seconded by Mr. Swartz and unanimously carried by those present to adopt staff’s recommendation to include staff’s suggested language in Attachment 1.

It was moved by Ms. Anderson, seconded by Mr. Oldman and unanimously carried by those present to adopt staff’s recommendation to include staff’s suggested language in Attachment 2, after correcting two typographical errors.

Mr. Elkins asked what type of record would be kept related to a Board-recognized peer review program provider’s informal hearing. Mr. Duke noted that clarifying regulations can be promulgated to handle this need.

Mr. Franzella stated that Board staff recommended an additional proposed amendment relative to the absorption of peer review costs. He stated that staff requested direction, if necessary, to work with the author’s office to amend AB 138 to remove the need for an appropriation of the Accountancy Fund to fund the activities associated with peer review.

It was moved by Ms. Anderson, seconded by Mr. Driftmier and unanimously carried by those present to adopt staff’s recommendation to amend AB 138 to absorb the costs associated with peer review, if necessary.

4. Author-Proposed Amendments to AB 138 – Peer Review.

Mr. Franzella provided an overview of the Consumer Attorneys of California’s (CAOC) requested amendment related to the confidentiality of peer review records (**see Attachment 9**).

Mr. Oldman remarked that he wanted to ensure the CAOC language was not tied to the Board’s language related to the confidentiality of peer review records.

It was moved by Mr. Ramirez, seconded by Mr. Swartz, and unanimously carried by those present to adopt the language offered by the CAOC, and to communicate Mr. Oldman's concerns to ensure the language does not affect the Board's enforcement activities.

Mr. Franzella provided an overview of amendments requested by the Center for Public Interest Law (CPIL) (**see Attachment 10**). He also noted that staff have offered some suggested amendments to improve the overall clarity, while not changing the intent.

Mr. Schultz stated that under the AICPA Peer Review Program, each state has an administering entity. He stated that there may be administrative impediments, such as the laws of confidentiality that fluctuate between states. He stated his belief that the Board should have the regulatory authority to deal with the firms not served by CalCPA and/or express some sort of intent to have the Board President and Vice President convene a conference call with stakeholders to discuss these impediments. He pointed out his concern that there may be unintended consequences, due to the complexity of this program.

Mr. Stanley stated that Ross Warren has been working collaboratively with Mr. Ed Howard, CPIL's Senior Counsel, and that CPIL has not yet opposed this bill. Mr. Stanley further stated that he expected CPIL to determine whether it will take an oppose position dependent upon the outcome of this meeting.

Mr. Bermúdez stated his concern with drafting an amendment that would later become subject to changes. He suggested informing CPIL that additional time is needed to craft better language to be provided to CPIL and the committee, and that the Board needed to commit to making amendments in the Senate.

Mr. Ramirez stated that he had no issues with the language, and agreed the 60-day reporting requirement would be best. He further stated that the administrative impediments listed by Mr. Schultz can be resolved and is not a "deal killer".

Mr. Bermúdez suggested providing CPIL and the CAOC the amendments without placing them into the bill. He stated that placing amendments into the bill may establish a level of expectation. He stated that he would rather offer amendments without placing those amendments into the bill, and continue the current dialogue with CPIL and the CAOC.

Mr. Elkins stated his concern that the Board may have opposition to the bill if the language was not adopted by the Board at this meeting.

Mr. Stanley suggested the Board adopt the language as is and direct the Peer Review Team, or Board leadership, to collaboratively work with CPIL to perfect this language once it is amended into the bill.

Mr. Franzella pointed out that the Board is not approving the AICPA administering entity in each state, and that the issue is how the AICPA will disseminate the information to the Board and understand how it will impact the AICPA.

Mr. Schultz disagreed and stated that peer reviews are accepted by the administering entity in each state, and the administering entities in each state needs to operate under the laws of that state. He further stated that regarding the issue of confidentiality, some states are more confidential than others with regard to their peer review reports.

Mr. Franzella pointed out the Board will not look at each administering entity independently, but will instead look at the AICPA's program.

Mr. Bermúdez suggested holding a special meeting, conference call, or both, in June to resolve these issues. He stated this would allow staff the ability to work out particular issues to demonstrate to potential opposition that the Board is working on this issue, give tentative language and advise that this language is not final but will be approved by the Board in June.

Mr. Petersen disagreed and stated his belief that out-of-state failed reports was a minor aspect that did not warrant a special meeting.

It was moved by Mr. Elkins, seconded by Ms. Chi and carried to approve the proposed language with the understanding that staff will continue to work with potential opposition, as well as the author's office to sort out the details, and include Mr. Harris' suggested language "as permitted by law". Mr. Bermúdez opposed.

Mr. Petersen stated his belief that Mr. Schultz should participate in the resolution of these issues.

Mr. Bermúdez inquired as to whether the Board would vote on the final language.

Mr. Petersen clarified the Board would not vote on the final language, and the Board would vote on moving forward with the CPC and author's recommendations.

Mr. Schultz stated that Linda McCrone and James Brackens would be able to offer the most knowledge of the issues.

Ms. LaManna inquired into the number of firms that would go to an outside entity and would be covered by this legislation. She stated that most firms using out-of-state providers would be subject to the SEC or the PCAOB.

Mr. Schultz stated the population would be relatively small.

Ms. Anderson inquired into the feasibility of adding “unless legally prohibited by others’ laws” into the legislation.

Mr. Schultz pointed out the AICPA only has the reports for the peer reviews they administer and that they do not receive reports from each state. He further stated that the Board may circumvent this law by implementing a contract up front.

Mr. Elkins stated that has nothing to do with statute, and these issues may be resolved through regulation or some other alternative means.

Mr. Bermúdez disagreed with the Board not voting on final language.

Mr. Petersen stated the Board is the furthest it has ever been with peer review legislation and did not wish to lose momentum due to inconsequential administrative procedures that may be solved through regulation.

Mr. Ramirez suggested scheduling a teleconference in two to three weeks to ensure the Board is content with the final language.

Mr. Petersen stated the need for Board members to have faith in Board leadership and committees.

Ms. Taylor suggested adding “legally enforceable” into the bill language, and Mr. Petersen agreed.

Mr. Harris suggested adding to the paragraph at issue “ ... Peer review providers shall provide to the extent applicable by law”.

Mr. Bermúdez stated the author can place any language they wish into the bill regardless of whether the Board supports it, and he re-iterated the urgency of holding a special meeting in June.

Mr. Petersen stated the amendments were discussed with the author, and that should the author propose other amendments those would be brought before the Board.

Ms. Bowers inquired into whether the Board wished to hold a scheduled conference call to discuss the final language.

Mr. Petersen stated a conference call would be unnecessary if Mr. Harris' sentence was added to the language, and the Board concurred.

B. Report of the Legislative Committee (LC).

1. Report of the May 14, 2009 LC Meeting.

Mr. Stanley explained the difference between a watch and neutral position. He stated that a watch position means the bill has potential to affect the Board, but the impact is uncertain so it would be best to "watch" it. He further clarified that a neutral position is if a bill affects the Board, but the Board does not support or oppose it.

Ms. Kirkbride provided a report on the agenda items listed below.

2. Update on AB 138 – Peer Review.

Please see Agenda Item VII.A.2. – 4.

3. Update on Bills on Which the Board has Taken a Position.

- AB 117 – Inactive Designation.
- AB 276 – Professional Fiduciaries: Licensing Exemptions.
- AB 309 – Public Contracts: Small Businesses.
- AB 472 – Disaster Preparedness.
- AB 797 – Accountants Discipline: Internet Posting.
- AB 1005 – Internet Broadcasting.
- SB 389 – Fingerprinting.
- SB 599 – Workforce Development.
- SB 638 – Sunset Review.
- SB 691 – Elimination of Pathway 1.
- SB 820 – Omnibus Bill.

The LC recommended the Board maintain its current position on AB 117, AB 472, SB 389, SB 638, SB 691 and SB 820.

It was moved by Ms. Kirkbride, seconded by Mr. Ramirez and carried by those present to maintain the current position on the above-listed bills. Ms. Brough was temporarily absent.

The LC recommended the Board adopt a support position on AB 276.

Ms. Stanley suggested sending a clarifying letter that the Board's support only extends to the Certified Public Accountants (CPA) listed in the bill.

It was moved by Mr. Ramirez, seconded by Mr. Swartz and carried by those present to approve the LC's recommendation of support, and issue a clarifying letter that the Board's support extends solely to the CPAs included in this bill.

The LC recommended the Board adopt a neutral position on AB 309.

It was moved by Mr. Oldman, seconded by Mr. Ramirez and carried by those present to adopt a neutral position on AB 309.

The LC recommended the Board adopt a support position on AB 797.

It was moved by Mr. Elkins, seconded by Ms. Chi and carried by those present to adopt a support position on AB 797.

The LC recommended the Board adopt a support position on AB 1005.

It was moved by Ms. Taylor, seconded by Mr. Swartz and carried by those present to adopt a support position on AB 1005.

The LC recommended the Board discontinue tracking of SB 599.

It was moved by Mr. Ramirez, seconded by Mr. Oldman and carried by those present to discontinue tracking of SB 599.

4. AB 1094 – Abandoned Records.

Ms. Kirkbride reported that Board staff suggested a friendly amendment to require a business to identify a successor custodian of its records that contain personal information and state that a cause of action shall not lie against a successor custodian that disposes of those records in accordance with the law.

The LC recommended the Board adopt a support position and issue a letter suggesting a friendly amendment.

Mr. Swartz suggested support of the bill without the amendment.

It was moved by Mr. Elkins, seconded by Ms. LaManna and carried by those present to adopt a support position on AB 1094.

5. AB 1194 and SB 719 – Expenditure Information on the Internet.

Ms. Kirkbride reported that the LC took no position and deferred SB 719 to the full Board.

Mr. Stanley reported that SB 719 would require that each state agency post expenditures in excess of \$1,000 on the agency's Web site. He further reported it has strong bipartisan support and would provide for greater transparency. He further stated the amount of information may become a barrier to find other useful information, and that staff time required to compile the data would be excessive. Mr. Stanley reiterated that this information is already a public record and the public demand for this information was minimal. Board staff recommended the Board adopt a neutral position.

Ms. Kirkbride stated her concern with the implementation date, as well as belief that agencies' expenditures should be placed in one central location.

Ms. Taylor stated her concern with the dollar value in the bill, and thought the value should be increased to \$50,000. She further stated her belief that this should not be an issue for self-funded boards because the issue deals with the transparency of agencies that are funded via the General Fund, and that the Board's financial information is already public record.

Mr. Swartz stated his belief that this bill is counterproductive by causing the government to spend more money when these records are already public documents.

Mr. Ramirez suggested the Board adopt a neutral position on this bill and issue a letter requesting the Board's concerns be addressed in order to obtain a support position regarding the dollar value, the implementation date, the Board's previous loan to the General Fund and that this information is already available.

Ms. Kirkbride disagreed with changing the dollar value in the bill.

Mr. Elkins agreed with adopting a neutral position and issuing a letter stating the Board's concerns with the implementation date and the format of the information.

It was moved by Mr. Ramirez, seconded by Ms. Kirkbride and carried to adopt a neutral position and issue a letter addressing the Board's concerns with the format, implementation date, loans

made to the General Fund, specifying the information is already public information and the high cost of implementing this legislation. Ms. Taylor abstained.

6. AB 1494 – Public Meetings.

The LC recommended the Board adopt a neutral position on AB 1494.

It was moved by Mr. Elkins, seconded by Ms. Anderson and carried to adopt a support position on AB 1494. Ms. Chi abstained. Ms. Taylor opposed.

C. Report of the Enforcement Program Oversight Committee (EPOC).

1. Report of the May 14, 2009 EPOC Meeting.

Ms. Taylor provided a report on the agenda items listed below.

2. Discussion of the Board's Disciplinary Guidelines.

Ms. Taylor reported the EPOC received an overview of the disciplinary guidelines (**see Attachment 11**).

3. Identification of New/Amended Statutes and Regulations Enacted Since Adoption of the Board's Disciplinary Guidelines and Model Disciplinary Orders, 6th Edition, 2005, and Consideration of Proposed Revisions to Guidelines.

Ms. Taylor reported the EPOC made no revision to the guideline format.

She further stated that there were new statutes and regulations enacted since 2005 which the current guidelines do not address, such as those regarding practice privilege. She reported the EPOC reviewed the recently enacted statutes and regulations and recommended penalties pursuant to the sections. Ms. Taylor further reported the EPOC approved the recommendations as written (**see Attachment 12**).

4. Discussion of the Challenges in Board Enforcement Cases Involving Large Firms.

Mr. Newington reported the EPOC discussed when firms should be included in accusations, and how the Enforcement Program should analyze cases to determine whether to name a firm as a respondent (**see Attachment 13**). He further stated the EPOC had previously ratified the decision tree as a viable tool to use and asked staff to proceed with creating a decision tree for the individual respondent level.

Ms. Taylor reported the EPOC requested another option to discipline large firms by prohibiting the firm from accepting new clients for a period of time. Mr. Ramirez clarified a large firm would consist of firms containing more than two partners. Ms. Anderson disagreed with the prohibition on firms to accept new clients.

Mr. Ramirez stated the intention was not to create a new penalty, but to provide an alternative means of discipline. Mr. Ramirez suggested this issue be brought back before the EPOC for further study regarding the impact on local and regional firms.

Mr. Swartz stated his belief that the current means of discipline is appropriate.

Ms. Kirkbride stated her belief there should be some sort of material impact to discourage firms from committing egregious acts.

Mr. Robinson stated this concept was used once by the Securities and Exchange Commission and knows of nothing in the Accountancy Act that would prohibit the Board from establishing this as a penalty. He further stated his understanding that the Board has the necessary authority to proceed with this concept.

Mr. Newington pointed out that item 17 in the Board's probation guidelines currently allows for the prohibition of certain types of engagements, such as audits, which differs from the recommendation of the prohibition of accepting new clients.

Mr. Elkins stated his belief that this is another alternative for the Board to use which would allow the Board to be in a better position to protect the public, and Ms. Chi agreed.

Mr. Petersen suspended further discussion of this issue pending the creation of specific language, and directed staff to bring that language before the EPOC defining the additional penalty, as well as indicating when it may be considered, before returning to the full Board for consideration.

Ms. Taylor further reported the EPOC considered the optional probation language introduced by Mr. Harris regarding the Practice Privilege Program, which deleted the references to CalCPA in paragraphs one and two, as well as the reference to the AICPA.

It was moved by Mr. Ramirez, seconded by Mr. Driftmier and carried by those present to approve the report and accept the recommendations of the EPOC, with the exception of the prohibition of large firms on accepting new clients.

D. Report of the Strategic Planning Task Force.

1. Report of the May 6, 2009 Strategic Planning Task Force Meeting.

Mr. Petersen reported a meeting was held on May 6, 2009, in which four Board members and 20 staff members participated, and the next meeting was scheduled for May 21, 2009. He further stated that a draft plan will be brought before the full Board for consideration upon completion.

E. Report of the Administrative Committee.

1. Report of the May 7, 2009 AC Meeting.

Mr. Khanna reported the AC held a meeting on May 7, 2009 in Los Angeles. He reported that Ms. LaManna and Ms. Bowers attended the meeting and investigative hearings. Mr. Khanna reported the AC reviewed 15 cases and agreed with Board staff's recommendations. He further reported that two investigative hearings were held, in which one case was referred to the Attorney General's Office and one was referred for further investigation. Mr. Khanna stated the next scheduled AC meeting will be August 6, 2009 in Sacramento.

Ms. Bowers complimented the AC and Mr. Harris for the outstanding work performed throughout the investigative hearings, and that the AC hearing process is extremely valuable and should be maintained.

F. Report of the CPA Qualifications Committee.

1. Report of the April 22, 2009 QC Meeting.

Ms. Garone reported the QC had 14 appearances at the April 22, 2009 meeting, in which four personal and six Section 69 appearances were approved, and two personal and two Section 69 appearances were not approved.

She reported the new QC member, Mr. Jeremy Smith, was introduced, and the draft minutes of the January 14, 2009 meeting were approved.

Ms. Garone reported that Ms. McCutchen provided a staff report, which included a discussion of the 16-day timeframe for processing licensing applications and that the Licensing Division is making a monumental effort to answer all telephone calls live.

Ms. Garone also reported the QC held a discussion regarding the proposal to eliminate the option of obtaining licensure with general accounting experience, and that Ms. Bowers gave a brief synopsis of how the general accounting experience licensure option came into

effect.

It was also reported that Ms. Anderson provided information as to the processes undertaken by the CPC and the Board when considering licensure with general accounting experience, and pointed out that some other states only require general accounting experience for licensure and the peer review process is utilized as a means to protect consumers. Ms. Garone relayed the QC's desire to assist and support the Board in future discussions regarding consideration of licensure with general accounting experience.

In addition, Ms. Garone reported the QC held a discussion related to the option of increasing the minimum number of hours of attest experience from 500 to 1,000, and it was determined that it may not be the time to bring forward a recommendation to increase the number of hours. She further reported that Board staff was requested to provide statistics related to the number of applicants applying for licensure with attest experience with 1,000 or less hours to be brought to the July 2009 QC meeting.

Ms. Garone concluded her report by stating the QC members received training, which included the roles and responsibilities of the QC, as well as the interview process and its ultimate outcome.

VIII. Appeals – Personal / Written.

A. Personal Appeals.

None.

IX. Report of the Enforcement Chief.

Mr. Newington introduced members of the Enforcement Program, which included Mr. Knapp, Ms. Santaga, Ms. Narvaez-Smith, and Ms. Tejada.

A. Report on Status of Enforcement Matters.

1. Activity and Status Reports.

Mr. Newington reported that as of April 10, 2009, there were 170 open licensed cases, and 22 unlicensed cases. He further reported the Enforcement Program conducted several special projects that focused on individuals who have falsely identified themselves as accountants, as well as individuals who have been operating accounting corporations and are not registered with the Board.

Mr. Newington reported that 22 accusations were filed, and 14 fines and 292 cease and desist letters were issued.

2. Major Case Summary.

Mr. Newington reported there are three open matters, and one of those is expected to result in an accusation to be filed shortly.

3. Report on Citations and Fines.

Mr. Newington reported 24 fines were issued through April 1, 2009, for a total of \$23,750, with an outstanding receivable balance of approximately \$44,000.

4. Reportable Conditions Data.

Mr. Newington reported that as of April 13, 2009, there were 228 reportable events, with 135 of those being tied to state agencies.

X. Report of the Licensing Chief.

A. Report on Licensing Division Activity.

Ms. Pearce reported the Examination Unit has a processing timeframe of 29 days, and is working on two projects, including automating the process used to calculate processing timeframes for applications and modifying the exam database to release the diagnostics report to examination candidates as soon as the advisory score is received.

Ms. Pearce reported the Initial Licensing Unit had a processing timeframe of 15 days in April 2009, and currently has no backlog.

Ms. Pearce reported the Renewal and Continuing Competency (RCC) Unit is working on various projects, including the Peer Review Program. She introduced Jenny Sheldon, Renewal and Continuing Competency Unit Coordinator, and stated that Ms. Sheldon is currently working on the continuing education outreach project, the sunset review report, the strategic plan, and she contributed an article to the most recent edition of the Board's *UPDATE* publication.

Ms. Pearce stated that the pre-selection audit notices will be sent in coming weeks, and staff have been conducting full audits of those identified with a deficiency as part of the continuing education worksheet review process and requesting full documentation from those licensees.

She also reported the RCC Unit has been working with DCA to change the renewal applications for licensees to include conviction and license discipline disclosure on the application. She also reported there was a last-minute revision of the renewal instructions, and the first group to receive these notices will be those individuals whose licenses expire in September.

Ms. Pearce reported the Practice Privilege Unit issued one notice of intent to suspend in March 2009, and is auditing notification forms monthly, as well as working towards automating functions of the notification system.

Ms. Pearce reported the Client Services Unit is currently working on more than 10 projects and is monitoring responses from the Customer Satisfaction Survey, which will be presented before the Board at the July 2009 Board meeting.

B. Consideration of Defining Supervision as Referenced in Sections 12 and 12.5 of the California Accountancy Regulations.

Mr. Petersen stated that due to pending litigation, this agenda item was tabled for a future agenda.

C. Update on the CPA Examination Site Visit and Secret Shopper Program.

Ms. Walker provided an overview of the Board's Site Visit and Secret Shopper Programs (**see Attachment 14**). Board staff sought Board member participation in site visits and the Secret Shopper Program, and visits for both programs will be scheduled in July and August 2009.

Mr. Driftmier volunteered his participation.

D. Presentation of Outreach Plan for the Continuing Education and Ethics Education Changes.

Mr. Franzella provided an outline of the Continuing Education Outreach Plan (**see Attachment 15**).

XI. Adoption of Minutes.

A. Draft Minutes of the March 20, 2009 Board Meeting.

B. Minutes of the January 29, 2009 AC Meeting.

C. Minutes of the January 14, 2009 QC Meeting.

D. Minutes of the March 19, 2009 CPC Meeting.

E. Minutes of the March 19, 2009 LC Meeting.

Ms. LaManna reiterated her belief that Board meetings should be longer and committee meetings shorter, which she stated at the previous Board meeting.

It was moved by Mr. Driftmier, seconded by Ms. Anderson and carried by those present to adopt the draft minutes of the March 20, 2009 Board meeting, and accept the minutes of the January 29, 2009 AC meeting, the January 14, 2009 QC meeting, the March 19, 2009 CPC meeting, and the March 19, 2009 LC meeting. Mr. Elkins abstained.

Mr. Duke stated his belief that the Board meeting minutes may be too detailed and inquired as to the amount of detail Board members wished to include in the minutes. Ms. Bowers asked Board members to support detailed minutes, and it was the consensus of the Board to keep the current level of detail.

XII. Other Business.

A. American Institute of Certified Public Accountants (AICPA).

1. Update on AICPA State Board Committee.

Mr. Driftmier reported the next scheduled meeting will be June 8, 2009 in Dallas, Texas.

2. Nominations for the Board of Examiners and Related Committees.

No nominations were received.

B. National Association of State Boards of Accountancy (NASBA).

1. Update on NASBA Committees.

a. Uniform Accountancy Act Committee.

Mr. Driftmier reported there is no meeting scheduled as of yet.

b. Compliance Assurance Committee.

Mr. Petersen reported the oversight committee charter was submitted, and the committee is pleased with the activities of the Board.

c. Global Strategies Committee.

There was no report on this agenda item.

d. Ethics Committee.

There was no report on this agenda item.

e. Legislative Support Committee.

There was no report on this agenda item.

f. Education Committee.

There was no report on this agenda item.

g. Accountancy Licensee Database (ALD) Task Force.

Ms. Bowers asked for the Board's approval to withdraw as Chair of the ALD Task Force due to the restriction on out-of-state travel. Ms. Kirkbride inquired as to the feasibility of participating as a member, rather than as Chair, and stated she would rather have Ms. Bowers remain on the committee. Ms. Bowers stated she will request to remain on the task force as a participant. Ms. Anderson stated her willingness to participate on this task force, if allowable. Mr. Petersen directed staff to issue a letter to NASBA pointing out the restriction on out-of-state travel and recommend Ms. Anderson's participation.

2. Recommendations for Nomination for Directors-at-Large.

No recommendations were received.

3. Recommendations for Nomination for Pacific Regional Director.

No recommendations were received.

4. Recommendations for Nomination for the 2009 William Van Rensselaer Public Service Award.

No recommendations were received.

5. Recommendations for Nomination for the 2009 Distinguished Service Award.

No recommendations were received.

6. Recommendations for Nomination for the 2009 Lorraine P. Sachs Standard of Excellence Award.

No recommendations were received.

XIII. Closing Business.

A. Board Member Comments.

Mr. Ramirez inquired into issuing a press release once AB 138 proceeds to the Senate. Ms. Hersh reported staff has instituted a process to ensure significant accomplishments are disseminated to the public.

B. Comments from CalCPA Representative.

Mr. Schultz congratulated Mr. Newington on his retirement and expressed his gratitude.

C. Comments from SCA Representative.

Mr. Tolkan issued his congratulations to Mr. Newington.

D. Public Comments.

Mr. Olson stated that he filed a Petition for Regulation Making on Investigating CPA Auditor Involvement in Madoff-type Schemes on April 5, 2009, which the Board denied, and he requested reconsideration.

Mr. Duke reported that Board management denied the petition because the Board already has existing legal authority to investigate complaints, and there were issues with the clarity of the proposed language. He stated the petition and denial letter will be provided at the July 2009 Board meeting.

Mr. Petersen requested notification to the Board when there is a petition for regulation. Mr. Duke stated the Administrative Procedures Act requires a decision of denial within 30 days, and Ms. Bowers was issued a Delegation of Authority by the Board to act upon similar types of petitions. Mr. Petersen then requested that denial of petitions be placed on the agenda for the next scheduled Board meeting to advise the Board of the outcome.

Mr. Stroub stated his concerns with AB 138. The Board addressed his concerns, and Mr. Stroub stated his appreciation of the thoughtfulness the Board displayed towards small practitioners.

E. Agenda Items for Future Board Meetings.

No items were received.

Adjournment.

President Petersen adjourned the meeting at 3:18 p.m. on Friday, May 15, 2009.

Robert A. Petersen, President

Manuel J. Ramirez, Vice President

Marisa Becerra-Garcia, Executive Analyst, and Patti Bowers, Executive Officer, California Board of Accountancy, prepared the Board minutes. If you have any questions, please call (916) 561-1718.