**State of Tennessee**
**Department of Commerce and Insurance**
**Tennessee State Board of Accountancy**
**500 James Robertson Parkway**
**Nashville, TN 37243-1141**
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**www.tn.gov/commerce/boards/tnsba**

# Board Minutes

29 July 2011

The meeting of the Tennessee State Board of Accountancy convened in the Andrew Johnson Tower, Nashville, Tennessee on Friday, July 29, 2011 at 8:47 a.m. Board members present were: Don Royston, Vice-Chair; Lisa Stickel, Secretary; Vic Alexander; Bill Blaufuss; Jennifer Brundige; Shannone Raybon; and Doug Warren.

Absent were: Stan Sawyer, Chair; Kenneth Cozart; and Casey Stuart.

Staff members present were: Mark Crocker, Executive Director; Don Mills, Investigator; Chris Whittaker, Staff Attorney; Sandy Cooper; and Kathy Riggs. Wendy Garvin and Brad Floyd were present representing the TSCPA.

Mr. Royston assumed the duties of the Chair in Mr. Sawyer's absence. Mr. Royston called the meeting to order and asked Mr. Crocker to make announcements. Mr. Crocker stated that the new mileage reimbursement rate of $.47 per mile would go into effect on 01 August 2011. He also stated that Mr. Bill Giannini, the new Assistant Commissioner for Regulatory Boards, would be unable to meet with the Board at this meeting. Mr. Giannini sent his regrets and indicated that he would be available at the time of the October Board meeting.

Mr. Royston then asked the Board members to review the minutes from the Board meeting on May 6, 2011. Mr. Warren moved to accept the minutes as presented. Ms. Stickel seconded the motion and it passed unanimously.

Mr. Royston then discussed the use of Robert's Rules of Order to conduct Board meetings. Mr. Alexander moved that the Board adopt Robert's Rules of Order for the next twelve (12) months. Ms. Brundige seconded the motion and it passed with a unanimous vote.

Executive Director's Report:

Mr. Crocker gave his Executive Director's Report. The full report is attached (Attachment A).

Formal Hearing:

The next item of business was a Formal Hearing in the matter of Mr. Robert F. Rooney, license number 6874. Mr. Rooney's license to practice public accountancy expired December 31, 1987 and has not been renewed, yet Mr. Rooney has continued to practice and to lead the public to believe that he is a licensee of this Board. In addition, Mr. Rooney's license to practice public accountancy in Texas was revoked in January of 1988 and he failed to notify the Tennessee Board of this action. Ms. Laura Betty, Esq., represented the State of Tennessee and Mr. Rooney served as his own counsel. The Honorable Mary M. Collier presided over the matter.

At the end of testimony, Mr. Warren moved that Mr. Rooney's license be REVOKED; seconded by Ms. Stickel. Mr. Royston called for a roll call vote and each member voted for revocation. Mr. Warren then moved for the assessment of all investigatory, hearing and prosecutorial costs against Mr. Rooney. Mr. Alexander seconded this motion. A roll call vote was unanimous in assessing these costs against Mr. Rooney. Mr. Blaufuss then moved that civil penalties in the amount of $500 per violation (there were 10 violations proved). This motion died for lack of a second. Mr. Blaufuss next made a motion to assess civil penalties in the amount of $1,000 per violation for a total of $10,000.00. This motion was seconded by Mr. Alexander. A roll call vote resulted in six (6) in favor with one abstention (Ms. Raybon). Motion passed.

A full transcript of the hearing is included as Attachment B.

BOE Report:

Mr. Warren (the current Chair of the BOE), stated that the ERB has completed its review of the exam process and has issued an unqualified opinion. He further stated that CBT-e implementation was very successful with only a few minor glitches. He noted that five (5) foreign countries have been added as testing sites and there are additional countries in discussions to be able to offer the exam in those locations. Grades for the third quarter of 2011 will be held again in order to validate the exam. Beginning in the fourth quarter, grades will be released more frequently and with greater predictability. One item of note that the Board may wish to consider is the length of time that exam grades are held. Mr. Warren stated that other Boards have limited the time frame for which exam scores are valid. Their concerns are primarily storage and whether or not "old" exam grades reflect how current the candidate's knowledge may be. That concluded Mr. Warren's report.

**NASBA Committee Reports:**

Communications Committee:

Ms. Stickel stated that this committee held break-out sessions at the Western and Eastern Regional Meetings this year. She discussed the concept of having an "elevator speech" for the Board so that members would have something prepared to say whenever an opportunity presented itself. The Committee reviewed what various states were doing in the arena of communications, and Ms. Stickel noted that the North Carolina Board has a full-time staff person responsible for communications. A video was shown on the use of social media. This concluded Ms. Stickel's report.

UAA Committee: No report.

State Board Relevance and Effectiveness Committee:

Ms. Brundige stated that this committee had adopted a motto of EPA: educate, promote and assist. This committee has been divided into three (3) subcommittees: state boards; state societies and AICPA; and legislative initiative. Ms. Brundige is serving on the legislative initiative subcommittee.

The state board subcommittee is developing attributes of a semi-independent board. They are looking at each jurisdiction and will categorize each board. Preparation of a cost analysis and an enforcement analysis will be part of their work, as their contention is that boards that have more semi-independent characteristics function more effectively and hear more enforcement actions. This subcommittee is also considering training its members so that they can be sent out to talk to various state boards about this work.

The state societies and AICPA subcommittee will begin gathering data on the culture of communications between boards and the state societies.

The legislative initiative subcommittee is developing a legislative work plan to help create relationships and communications with legislators. Talking points will be developed for board members to use, and some states even prepare booklets or pamphlets that can be distributed. Perhaps the development of an annual report would be a good first step. That concluded Ms. Brundige's report.

Reinstatement Interview:

Mr. David H. Davis, license number 7472, is petitioning the Board to be allowed to apply for reinstatement of his license. A complaint against Mr. Davis had been closed with the acceptance of his affidavit to surrender with the stipulation that he would have to appear before the Board if he ever wished to apply for reinstatement (a summary of his complaint history is included as Attachment C). After surrendering his license, Mr. Davis had signed a letter sent to the City of Crump using his "CPA" designation. He indicated that this was done in error and that it was an isolated incident.

Mr. Warren moved that Mr. Davis be allowed to make application for reinstatement with no guarantee from the Board of approval, and with the notation that reinstatement, if granted, would probably be subject to some conditions. Mr. Alexander seconded the motion and it passed unanimously.

Formal Hearing:

The next item of business was a formal hearing in the matter of Ralph H. Turley, III, license number 3726. Ms. Laura Betty, Esq., represented the

State of Tennessee, Mr. Turley served as his own counsel, and the Honorable Mary M. Collier presided. Charges against Mr. Turley were: 1) failure to properly notify the Board that his license to practice public accountancy in Arkansas had been revoked; 2) failure to provide accounting services to a client in a timely manner; and 3) failure to timely file his personal tax returns.

During the course of the hearing it appeared that the State and Mr. Turley might be able to reach a settlement. Judge Collier allowed the parties time to talk terms and a solution was reached. The agreement presented for consideration included the following: 1) Mr. Turley's license will be placed in 'Retired Over 70' status and he is not to offer or provide accounting services to the public; 2) if he wishes to reactivate his license at some point in the future, he must appear before the Board in order to obtain permission; and 3) he is to pay all investigatory, hearing and prosecutorial costs. Mr. Warren made a motion to accept the terms of the agreement, seconded by Mr. Alexander. The motion passed unanimously.

The full transcript of the hearing is included as Attachment D.

**Board Committee Reports:**

Licensing Committee:

Ms. Brundige began the report stating that the committee had reviewed the request of two exam candidates to extend conditional credits. Malgorzata Rydygier-Karolcza and Will Logue requested that their conditional credits be extended one window (through August 2011) because of a delay in receiving their test scores. The Board has the authority to grant the extension per Rule 0020-1-.06(7)(a). The AICPA had delayed releasing all scores during that time period in order to allow sufficient time to validate the new exam and the questions regarding IFRS. The Committee recommended the requested extensions for both candidates. Mr. Alexander seconded the committee's motion and it passed unanimously.

The committee also reviewed a request by Cheryl Jones, license number 7604, to waive fees and CPE relative to the reinstatement of her license. Ms. Brundige stated that Ms. Jones had become disabled in 1998 due to inhalation of pesticides and was not able to return to work until 2005. The committee had considered this fact and recommended that the fees be

reduced $250.00 based on her disability for those years, but that she be required to complete the 80 penalty hours of CPE. Mr. Alexander seconded the motion of the committee and it passed unanimously.

Beacon Hills Financial Educators submitted a State Specific Ethics Course for approval. The committee moved that the course be accepted with the correction of the typographical errors in the material. Mr. Warren seconded and the motion passed unanimously.

Ms. Brundige asked the Board Members to review the curriculum for a two (2) hour State Specific Ethics Course provided by Dr. Riggs and make changes and/or comments to Dr. Riggs on or before August 15, 2011. The curriculum will be revised as needed and presented to the full Board for a vote at the meeting on 13 September 2011.

There was discussion on Rule 0020-2-.02(1)(a)2 which limits accounting internship hours to three (3) to be included as part of the required accounting education. The committee recommended no change be made at this time.

Ms. Brundige also reported that 96% of licensees were compliant with the CPE audit for the licensing period of 2009/2010. New licenses issued since the last meeting were one hundred and twenty-one (121) individuals and sixteen (16) firms. Dr. Riggs also provided a list of firms requesting exemption from Peer Review (included as Attachment E).

This concluded Ms. Brundige's report. Mr. Alexander moved to accept the report, seconded by Mr. Blaufuss and passed unanimously.

Executive Committee:

Mr. Royston gave the report in Mr. Sawyers' absence. The committee discussed Non-Compete Agreements and decided that the Board did not need to take any action on the subject at this time.

The committee also discussed activities of retired professionals pursuant to a query raised by one of our licensees. The committee concluded that a retired CPA could perform bookkeeping for his firm, but not for clients of the firm. They also concluded that a retired CPA could not participate or oversee peer review inspections.

One licensee applying for a firm permit brought up some experience questions. This licensee worked in the State of Tennessee without a license issued by this Board for thirteen (13) years, but held a license from a neighboring state. The licensee obtained a license from this Board in 2010, and opened an accounting firm in Tennessee in 2011 using the work experience earned from the Tennessee accounting firm to meet the work experience requirement. However, if the licensee was performing attest functions in Tennessee on the license from another state, then the work experience was "tainted." The committee recommended research to determine exactly what the work situation was at that time and to open a complaint if the work was done without proper licensure.

The committee also discussed the work of the Blue-Ribbon Panel concerning standards for private companies. Mr. Warren moved to endorse the recommendations of the Blue-Ribbon Panel, seconded by Mr. Alexander and passed unanimously. The Board instructed Mr. Crocker to draft a letter of support.

Mr. Royston asked Mr. Crocker to review the proposed travel plan and operating budget for fiscal 2012 (included as Attachments F and G). Mr. Warren moved to accept the travel plan for fiscal 2012 as presented, seconded by Mr. Alexander. Motion passed.

Ms. Stickel moved to accept the operating budget for fiscal 2012 as presented. Ms. Brundige seconded and the motion passed.

During discussion of the travel plan and the budget, Mr. Blaufuss raised some concerns that perhaps the Board was not being sensitive to the State budget issues. Pursuant to those comments, Mr. Blaufuss requested that the record reflect that he voted in the negative to those motions.

That concluded the report from the Executive Committee.

Probable Cause Committee:

Mr. Alexander presented the report and began by reviewing the complaint statistics (Attachment H). The Board was given time to review the Legal Report (Attachment I). The committee recommended that the report be accepted as presented, and the motion passed unanimously.

Independence Committee:

Ms. Stickel stated that the committee was working on defining their objectives. They recommended that Management analyze the Law and Rules and that a report be compiled of the areas in which the policies and procedures of the Department of Commerce and Insurance are contradictory to the statute. These areas of concern will be addressed at the next meeting.

Old Business:

None

New Business:

None

There being no further business to come before the Board, the meeting was adjourned at 4:29 pm.

Chairman

Secretary