



TEXAS STATE BOARD REPORT

OCTOBER, 1981 AUSTIN, TEXAS VOL. 6

BOARD RESOLUTIONS ENGENDER INTEREST

Publication in the June BOARD REPORT of resolutions involving major issues facing the Board has engendered considerable interest among licensees. The most frequent comments have involved mandatory continuing education and the two-step licensing system. This article will attempt to answer many of the questions raised.

MANDATORY CONTINUING EDUCATION **Voluntary Reporting** - when completing the license renewal forms for calendar year 1982, licensees will be asked to complete a block on continuing education (CE):

"Number of continuing education hours which qualify under Board standards and were obtained from Sept. 1, 1980, through Aug. 31, 1981

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Please complete even if this figure is zero."

Reporting of CE hours on the 1982 license renewal form is voluntary. For statistical purposes, however, licensees are encouraged to complete the section as accurately as possible.

Mandatory Reporting - the Public Accountancy Act of 1979 (the Act) provides statutory authority for the Board to implement a CE program. Prior to implementation, licensees and other interested parties may testify at a Public Hearing on proposed Substantive Rules (or rule changes). Hearing date(s) will be published in the *Texas Register* (issued by the office of the Secretary of State) and in the BOARD REPORT if deadlines permit. Anticipated hearing date(s) - April, 1982.

The expected implementation procedure for mandatory reporting of CE hours is as follows:

When renewing a license for calendar year 1983, the licensee must report qualifying hours earned from Sept. 1, 1981, through Aug. 31, 1982 (if no hours were earned, a "0" would be entered). In addition to reporting the number of qualifying hours earned (on the front of the renewal form), the licensee will be asked to enter specifics of the CE on the back of the form. A sample format is shown at the end of this article.

Mandatory Attendance and Reporting - when renewing a license for calendar year 1984, it is planned that the licensee will be required to have attended a specific number of hours of CE and to report hours earned from Sept. 1, 1982, through Aug. 31, 1983 (expected requirement - 40 hours annually). The same type of course identification requested on the 1983 renewal form will be requested on the 1984 renewal form.

Qualifying CE - the Board's Substantive Rules outline general standards for CE program development and reporting. Qualifying hours could come from, but would not be restricted to, such courses as accounting, auditing, taxation, management advisory services, practice management, communications, rules of conduct, quantitative methods, behavioral sciences, statistics, consulting, and other courses contributing to expertise in public accountancy.

Programs should be measured in terms of 50-minute continuous participation sessions. Such a session would equal one contact hour, and would be the shortest recognized program. A university or college semester hour would equal 15 contact hours, while a quarter hour would equal 10 contact hours. Qualifying self-study programs should ordinarily generate credit hours equal to one-half of the average completion time.

Instructors or discussion leaders would, for the initial presentation, receive credit both for preparation and presentation time (with preparation time equaling two times the presentation time). For repeat presentations, no credit would be counted for either preparation or presentation unless it could be demonstrated that the subject-matter had changed sufficiently to require significant study or research. Credit for preparation/presentation should not exceed 50 per cent of the total credit of a licensee during a yearly reporting period.

Documentation of contact hours should include a record of sponsor, title and description of course, date(s), location, and number of contact hours; this record should be retained for five years from the date the program is completed. For self-study programs, evidence of completion would normally be the statement or certificate supplied by the sponsor.

BOARD ELECTS OFFICERS

At the September meeting, the Board received resignations as follows: as Chairman, **Don M. Lyda**; as Vice Chairman, **A. Burke Haymes**; and as Treasurer, **Oscar E. Reeder**. The resignations were tendered to allow for uninterrupted conduct of the Board's activities, inasmuch as the Board terms of Messrs. Lyda and Haymes expired in September.

New officers elected to complete the remainder of the 1981-1982 term were **Oscar E. Reeder**, Chairman; **Brooks Wilson**, Vice Chairman; and **Sue W. Briscoe**, Treasurer. **Miller Montag**, Board Secretary, will continue to serve in that capacity.

From The Chairman...

My six-year term as a member of the Board officially expired on September 4, 1981, as did the terms of others appointed at the same time. However, as provided in the Act, I will continue to serve as a Board member until my successor is appointed. The appointments are expected with each new day.

At any rate, before this September issue of the BOARD REPORT reaches licensees, I will have resigned as Chairman after having served successive one-year terms since October 11, 1977. Significant growth in the regulated populations (CPA candidates and licensees) has taken place, challenges have been entertained, and some constructive changes have been initiated by the Boards on which I served during these past six years.

The vacancy in the office of Chairman was filled under the Substantive Rules of the Board via an election at the first meeting following the vacancy. Transfer of officer responsibility was accomplished with minimum interruption.

Board members with whom I have served have agreed with each other on many issues, but in other instances have been able and enthusiastic advocates of widely divergent views. This willingness on the part of individual Board members to adopt and advocate positions in accordance with conviction has unquestionably contributed to the overall quality of Board decisions.

There is an abundance of leadership among the continuing Board members. For this reason, I am confident that the general public, candidates, and licensees will be served well under the new officers. Certainly the new officers will have my total support and best wishes.

During most of the six years I have been a member of the Board, it has been engrossed in reacting to outside influences. Some of the outside influences have been discussed elsewhere in the BOARD REPORT, and I will not enumerate them again. It is likely, I believe, that the Board will always be involved in one extent or another in reacting. However, I believe that the Board is at this time positioned for action on its own constructive projects. Knowing the leadership and talent available among continuing Board members, I feel that the Texas public, including licensees and candidates, can look forward to significant progress in the years just ahead and to



Oscar E. Reeder, Chairman



Brooks Wilson, Vice Chairman



Miller Montag, Secretary



Sue W. Briscoe, Treasurer

retention by the Board of the reputation for being one of the best in the U.S.

Even as I shift and turn somewhat restlessly in the twilight of my term as a Board member and as a practicing professional accountant, a few concerns about the accounting profession in general resist dismissal. Founded or unfounded, I feel compelled to take this opportunity to share them with my fellow licensees.

- The trend away from professionalism toward commercialism
- The threat of a technical-standards overload with attendant danger that services of complying practitioners will tend to be priced out of the reach of small business and other users of accounting services
- The failure of our educational institutions to produce graduates who are equipped with appropriate attitudinal, behavioral, and technical training to enter public accountancy and perform as professionals
- The licensing by state boards of accountancy over the country (including Texas) of CPAs who are not adequately equipped to practice on their own
- The threat of excessive bureaucracy and regimentation by the voluntary professional associations and even some state boards
- The failure of state boards of accountancy to respond to the public need for providing systems for designating areas of practice.

My expressed concerns are not to be interpreted as indicating hopelessness, but rather as challenges. I believe that all of these concerns will be addressed in the years ahead. I am very confident about the future of the Board, the accounting profession in general, and the capacities and determinations of both to see that the public is provided the best service possible. The only thing that will keep this from happening is ourselves -- licensees, the boards, and the public in general.

Finally, I express sincere gratitude to the outstanding Board members, **Bob Bradley**, and the superior staff Bob has developed, with whom it has been my privilege to serve these past six years.

Don M. Lyda, CPA
Immediate Past Chairman

A CAPSULE VIEW.

by Jane I. Johnson, Editor

Although Board members officially remain in office until the Governor appoints replacements, September marked the calendar end of six-year terms of **Chairman Lyda**, **Vice Chairman Haymes**, and **Member Williams**. Since these six years have involved numerous singularly important and longranging actions, the following brief summary of highlights is presented:

REVIEWS AND INVESTIGATIONS **The Texas Sunset Act** - the Sunset Act, 1977, provided for the expiration of over 200 state agencies over 12 years unless reestablished by statute after review by the Sunset Advisory Commission. The Commission, composed of four Senators and four Representatives, had as its purposes the determination of whether or not each of the agencies should continue to exist and, if so, the formulation of recommendations for changes in the statute designed to promote efficiency and effectiveness.

The Texas State Board of Public Accountancy (the Board) was one of the first of the 26 agencies reviewed during the 1978 legislative session and was scheduled to expire September 1, 1979. The Commission found that the Board did serve the public interest and, therefore, should continue to exist. Recommendations made by the Commission resulted, however, in significant changes in the then-in-force Public Accountancy Act of 1945 (the Act of 1945).

The Board worked closely with the Commission staff in late 1977 and most of 1978 and provided testimony before the Commission at the public hearing in 1978 and at a number of other legislative hearings in 1979. At the conclusion of the review, Senate Bill 282 was introduced on behalf of the Commission. Unfortunately, the Bill was not acceptable to the Board for various important reasons.

Thus, the Board, working with the Texas Society of CPAs (TSCPA), drafted a new bill, which was sponsored in the Senate by **O.H. "Ike" Harris** and in the House by **James E. "Pete" Laney**. This was Senate Bill 797, which after months of drafting and editing, hearings, and public testimony became the Public Accountancy Act of 1979 (the Act of 1979).

Federal Trade Commission Investigation - Another notable review of the Board (as well as of all other state boards of accountancy) was conducted in the late 1970's by the Federal

Trade Commission. The indicated purpose was to determine whether or not standards being enforced by state boards were unreasonably high, whether or not entrance requirements were unreasonably restrictive, and whether or not consumers were being given a wide enough range of choices as to quality of service. This investigation, like the Sunset Review, entailed significant paperwork, research, and time.

In late 1980, the Commission concluded that it would take no action with respect to any board of accountancy nationwide in that many of those practices about which complaints had been received had been discontinued.

LEGISLATION AND RULE ENACTMENT **Rules of Professional Conduct** In response to the Roberts decision, the Bates decision, the Sunset Commission review, and the need for more uniformity with the rules of other states, all of the existing Board Rules of Professional Conduct (the Rules) were repealed. New rules, patterned after the National Association of State Boards of Accountancy's (NASBA) Model Rules and after the Treasury Department's Rules of Practice, remained in force until September 1, 1979, the effective date of the Act of 1979.

On that date, new rules giving effect to the Act of 1979 were adopted on an emergency basis (and were finally adopted on December 27, 1979).

Public Accountancy Act of 1979 - The Act of 1979, referred to under the Sunset Review above, was the first new accountancy act in over 30 years. Numerous changes from the Act of 1945 were made. Changes included an increase in the number of Board members from nine to twelve, including for the first time three non-licensee members; language clearly providing that the Board **shall**, not **may**, make rules; elimination of the requirement for licensees to approve rule changes; permission for candidates to sit for all parts of the examination when education requirements are satisfied; confidentiality of Board files; privileged client-accountant communication; appeal of Board orders under Substantial Evidence Rule (instead of via Trial de Novo); and placing the Boards funds in the State Treasury subject to the appropriative process. The funds change had been vigorously resisted by the Board throughout the Sunset Review process, but was finally enacted via a last-minute floor amendment in the Senate. Experience so far under the appropriative process indicates that the objections which the Board raised were distinctly valid.

The Act of 1979 was amended in 1981. These revisions were covered in some detail in the June issue of the BOARD REPORT.

Administrative Procedures and Texas Register Act - Another major piece of legislation with impact on the late 1970s was the Administrative Procedures and Texas Register Act, which requires publication of official meeting agendas, posting of advance notices of meetings and filing of all Rules with the **Texas Register** in the office of the Secretary of State. This Act, along with the earlier "Open Meetings Law" (Article



Chairman LYDA testifies before Legislative Committee.

. . . 1976 to 1981

6252-17, Vernon's Texas Civil Statutes), were significant in insuring an opportunity for public notice of and access to Board meetings and decisions.

LITIGATION Perhaps more important and frequently referenced during the Sunset and other legislative hearings were certain landmark court decisions in Texas and elsewhere.

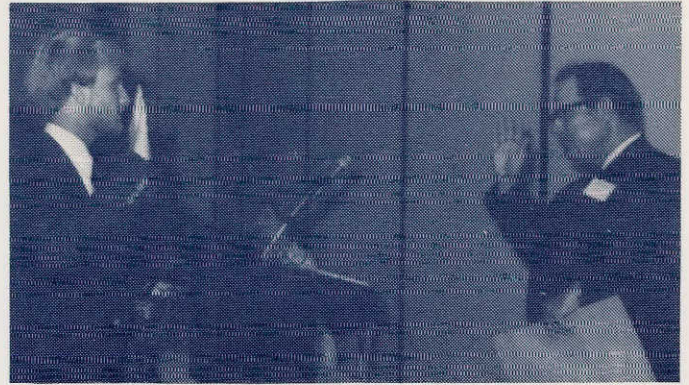
U.S. vs Texas State Board of Public Accountancy - Old Rule 14 prohibiting competitive bidding was the focus of litigation in U.S. District Court in Austin, which resulted in the Roberts Decision in May, 1978. Judge Roberts found the Board in violation of the Sherman Antitrust Act because the following vital elements were present: 1) Rule 14 on its face constituted an unreasonable restraint of trade, and 2) a conspiracy existed because of action in concert by the Board on one hand and licensees on the other to make rules effective (the Act of 1945 required that rules promulgated by the Board be approved by a majority of permit holders prior to becoming effective).

The Board in its brief argued that it was exempt from the Sherman Act under the state action doctrine of *Parker vs Brown*, a California case. That case held that a state agency acting on a mandate from the legislature is exempt from the Sherman Antitrust Act. Judge Roberts discounted the state action doctrine of *Parker vs Brown* on the grounds that the Act of 1945 was only permissive and did not contain the vital legislative mandate in that it simply stated that the Board "may" make rules.

As has been stated previously, the Act of 1979 included changes designed to address most of the issues in question.

The Board was enjoined by the U.S. District Court in May, 1978, from enforcing Rule 14. Appeal to the U.S. Fifth Circuit Court of Appeals resulted in an adverse two to one decision by a panel of that Court in April, 1979. The Board's petition for certiorari to the U.S. Supreme Court was denied late in 1979. The injunction (modified somewhat by the U.S. Fifth Circuit Court of Appeals) remains in force and will continue to bar any anticompetitive rule-making not clearly authorized by the Act of 1979. This decision was a definite and profound influence on the Act of 1979 and on the current Rules of Professional Conduct.

Bates and Osteen vs State Bar of Arizona - The captioned case was finally decided by the U.S. Supreme Court in June, 1977. The decision had a revolutionary effect on professional regulation nationwide. The court held that 1) the State Bar of Arizona was exempt from the Sherman Act under state action doctrine of *Parker vs Brown* in restricting advertising by attorneys, and 2) the State Bar of Arizona rules violated the First Amendment of the U.S. Constitution to the extent that they did not permit price advertising of certain routine services in a manner which was not false, misleading, or deceptive. Its influence is apparent in the Act of 1979 and in the Board's Rules of Professional Conduct.



Chairman Lyda administers oath to new CPA in Spring, 1981.

Injunctive Litigation Against Unlicensed Individuals - Suits for injunctive relief brought against unlicensed individuals by the Office of the Texas Attorney General resulted in forceful Texas case law as the Board entered the 1980s. Reports indicate that much credit for the success in this litigation is due to determined pursuit by former Chairman of the Board, **Lloyd J. Weaver** and his fellow Board members.

In September, 1980, an unlicensed individual filed a class-action suit against the Board in U.S. District Court in Brownsville in an effort to become licensed without taking the CPA examination. Constitutional issues have been raised. The Texas Attorney General has filed a Motion for Dismissal on the grounds that the issues involved have been twice litigated. To date the court has not ruled on the motion. **Settled Lawsuits** - During the six years being highlighted, several other suits against the Board or its members have been settled, mainly through court proceedings but without formal trials. One such suit sought tribal damages in excess of \$30,000,000.

Pending Litigation - In addition to the class-action suit mentioned above, another class-action suit was filed against the Board in state district court of Travis County in September, 1980. In this instance, the Texas Association of Public Accountants is attempting to reopen licensing to Public Accountants under the Act of 1979.

Also in process are suits in behalf of the Board to enjoin unlicensed persons from holding out as accountants or CPAs.

ADMINISTRATIVE MATTERS In August, 1978, **Pauline Thomas** died. Mrs. Thomas had been the Board's Administrative Director for over 30 years. Her illness and death unquestionably had a profound impact upon Board administration. High quality and well-trained staff people, with extra help from Board members, were able to achieve an orderly, uninterrupted flow of operations. On October 1, 1978, the Board hired **Bob E. Bradley** as Executive Director.

Administratively, the period has also included:

- operating under the appropriate process
- resignation of the Enforcement Coordinator and hiring of the Board's first staff attorney as the new Enforcement Coordinator effective January 24, 1980

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1976 to 1981 *(continued from page 5)*

- hiring of a second staff attorney
- computerization of the Board's records, with two systems operative and a third in the process of implementation.

POLICY DECISIONS Important policy decisions have also been made, including:

- adoption of the committee system, currently consisting of five committees (Enforcement, Entry and Reentry Screening, Examinations, Technical Standards Review, and Executive)
- initiation of the STATE BOARD REPORT
- introduction and distribution to Texas educational institutions of a report on CPA candidates' characteristics and performance, undertaken on behalf of the Board by **Doctor Allen Bizzell** for the November, 1976, examination and later for the May and November, 1977, examinations . . . Doctor Bizzell is also scheduled to complete reports for 1978 and 1979 . . . the American Institute of CPAs will complete the study for 1980
- addition of examination sites in Austin and El Paso
- adoption and implementation of the hearings panel concept in 1981
- increase of enforcement activities
- adoption of policy of not waiving the CPA examination requirement for reciprocity applicants effective April, 1980
- adoption of standards for programs and courses of continuing education, patterned after the model developed by NASBA
- endorsement in principle of TSCPA's statement of policy regarding Programs and Courses of continuing education
- identification of major issues facing the Board
- adoption of the Resolutions (see June BOARD REPORT) regarding mandatory continuing education, two-step licensing, naming and defining the enforcement program, increased educational requirement, and recognition of specialized areas of practice.

Central Swearing-in Ceremony - another major policy decision involved the swearing-in ceremony for new CPAs. Numerous factors entered into the decision to adopt a policy of semi-annual (Spring and Fall) central ceremonies. Among these factors had been criticism for failure of the Board to maintain an identity with the public and the regulated populations separate, distinct, and apart from the private professional associations. This confusion has been promoted to some extent by the Board's earlier delegation of some of its own responsibilities regarding new CPAs to Society chapters.

The Board's failure to maintain an appropriate identity has resulted in widespread confusion among licensees as to the distinction between the Board and the Society. This has been especially evident in enforcement matters, where licensees often fail to distinguish between the activities of the Society's Ethics Committee and the enforcement activities of the Board. Many licensees also fail to understand that the Certificate is issued under state law and that the Board's rules have the force of law.

The Board's adoption of the central swearing-in ceremony

concept is designed to help reduce confusion by assisting new licensees to grasp more clearly the legal and professional responsibilities inherent in the Oath, the Rules, and the Act of 1979.

Doctor James A. Tinsely, Texas Gulf Coast Historical Association, who has recently been engaged by the Board to write a Board history, notes that "Historians will likely record that those members of the Board whose terms expired in September, 1981, and the colleagues who served with them during their six-year incumbency, represented the Board during one of the most crucial periods of its 66-year existence."

The editor of the BOARD REPORT extends appreciation, on behalf of the staff and others, to **Chairman Lyda**, **Vice-Chairman Haymes**, and **Board Member Williams** for their valuable contributions to the accounting profession and to the public it serves.

SUMMARY OF ENFORCEMENT ACTIVITY

Eight months ended August 31, 1981

	Total	Rules	Act
Active files at beginning of period	180	86	94
Files opened	192	71	121
	372	157	215
Files closed	*140	62	78
	232	95	137

*71 via voluntary compliance, 40 via Board Orders, and 29 otherwise (mainly unlicensed individuals who have ceased doing business, cannot be located, or have died)

RULE 409 TO BE RESCINDED

House Bill 1170, authored and sponsored by Representative **Brad Wright** of Houston, was signed by the Governor on June 18 and became effective immediately. The Bill amended the Act to place within the discretion of the Board the matter of whether or not to require that a sign be posted informing consumers that complaints can be directed to the Board.

The Board considered the matter of the sign at its June meeting and voted unanimously to rescind Rule 409, which required display of the sign. The Board is in the process of officially rescinding the rule, which will leave the Rules of Professional Conduct without reference to a sign. The Board is authorized under the Act to promulgate new rules relating to the sign if the public need so indicates.

Representative Wright is a CPA, and the BOARD REPORT understands that he was the only licensee serving in the 1981 Legislative session. On behalf of the Board, the BOARD REPORT congratulates Mr. Wright on this legislative success, expresses appreciation for his public service, and commends him for responding to a specific legislative need.

Governor Appoints

The Governor has announced three new Board appointments:

ROBERT S. DRIEGERT, CPA, Dallas;
FRANK T. REA, CPA, Houston;
STANLEY J. SCOTT, CPA, Dallas.

Biographical and professional data will appear in the next BOARD REPORT.

TESTIMONY ON SCHOOLS OF ACCOUNTANCY CONTINUED

At the August Board meeting, **Larry A. Jobe**, **Professor E. Joe DeMaris**, and **Professor Charles T. Zlatkovich** appeared before the Board to testify on the public need for schools of accountancy. Excerpts from their testimony will appear in the next BOARD REPORT.

SENATOR HARRIS TO SPEAK AT CENTRAL SWEARING-IN CEREMONY

The program will include Board members; **Charles T. Zlatkovich**, President, Texas Society of CPAs; and **Don M. Lyda**, Immediate Past Board Chairman.

Eleven individuals from among the candidates have been identified by the Board as recipients of "Top Ten Outstanding Candidate" awards (there being a tie for tenth place). These candidates passed all parts of the examination in Texas at first sitting and earned the highest cumulative scores. The "Top Ten" are: **Kathleen B. Ciliske**, Bellaire; **Fran E. Williams**, Houston; **Shiow-Chyn Y. Chen**, Richardson; **Terry L.W. Southard**, North Richland Hills; **Ellen L. Rottersmann**, Houston; **Julius K. Matheney**, Conroe; **Louis M. Christa**, San Antonio; **Charlotte J. Birk**, Dallas; **Jennifer L. Yoder**, Houston; **Jane C. Puckett**, Dallas; and **Anh N. Lam**, Dallas.

Ronnie Rudd, Vice President, Texas Society of CPAs, attended the August Board meeting and, on behalf of the Texas Society, accepted the Board's invitation to host a reception for new CPAs and their guests following the ceremony.

Responses to ceremony invitations indicate an expected attendance of over 4,000 candidates and guests.

MEETINGS

Texas State Board of Public Accountancy:

October 22-24, 1981
November 20-21, 1981
January 28-30, 1982
February 25-27, 1982

Central Swearing-in Ceremony:

November 21, 1981, Austin, Texas

EXAMINATION CRITIQUE

A critique for candidates who took the May, 1981, Uniform CPA examination but who did not pass was conducted on October 17, 1981, in Dallas, Houston, Lubbock, and San Antonio. Pertinent information was sent to candidates prior to the critique. The date for the critique of the November exam will be announced in the next BOARD REPORT.

MAY, 1982 EXAM SCHEDULE

The schedule for the May, 1982, Uniform CPA Examination is as follows:

Examination Sites

Austin – Lester E. Palmer Auditorium
El Paso – University of Texas at El Paso Special Events Center
Fort Worth – Tarrant County Convention Center
Galveston – Moody Convention Center
Lubbock – Lubbock Civic Center
San Antonio – San Antonio Convention Center

Examination Times

May 5 - 1:30 p.m. to 6:00 p.m.
Accounting Practice, Part I
May 6 - 8:30 a.m. to 12:00 Noon
Auditing
1:30 p.m. to 6:00 p.m.
Accounting Practice, Part II
May 7 - 8:30 a.m. to 12:00 Noon
Business Law
1:30 p.m. to 5:00 p.m.
Accounting Theory

The deadline for submission of applications to sit for the May exam is March 1, 1982. Grades from the November, 1981, exam will be released February 1, 1982.

ADMINISTRATION AT TSBPA

The sometimes thankless role of the Administrative Section of the Board is one of continuous accommodation to the requirements of Federal and State government, other State agencies, vendors, licensees, the public, and other staff sections. There is no "slack" period for Administrative Section personnel, and employees often find themselves cross-trained and working in multiple roles in order to preclude disruption of Board business.

Jerilyn M. Bradley (Jeri), Administrative Coordinator, has been employed by the Board for eleven years and supervises a staff of five. She has direct responsibility for financial records, purchasing, printing, inventory, payroll, personnel, revenue, mail, records, and reception. In addition, she assists Board members at the Fort Worth examination site. Jeri attended S.M.U. (with a major in Education) and was employed by the John Hancock Insurance Company prior to Board employment.

Mrs. Bradley is assisted by:

Karleta Genzer, who is a six-year Board employee; Karleta prepares financial and purchasing reports and handles payroll;

Lynda Jowers, Officer Services Supervisor, who has been with the Board for ten years and has the responsibility for controlling incoming/outgoing mail and maintaining files;

Eleanor Whittier, Revenue Control Clerk, who has been with the Board for three and a half years and is responsible for the recording and depositing of all funds coming into the Board;

Shelly Brammer, Board Receptionist, a fairly new Board employee, who handles multiple tasks related to public inquiry and the dissemination of printed data (she is also cross-trained in several other administrative areas); and

Erin Ediger, formerly in the Enforcement Division, who is the secretary.

PUBLIC ACCOUNTANTS OF NOTE

Response to the March article identifying current CPA licensees with low certificate numbers was highly affirmative. The BOARD REPORT is now pleased to note Public Accountants who hold current registrations with the lowest numbers:

Louis H. Anderson - In Memorium - In June, Mr. Anderson, No. 40, indicated by telephone that he would look forward to sending professional and other biographical information for inclusion in this article. Mr. Anderson died July 20. Mr. Anderson was a native of Busti, New York, practiced accounting in Chicago and later relocated to Midland, Texas, where he owned his own firm. When he retired in the late 1960's, he spent extended periods in Mexico, where he completed tax returns for Americans residing there. The Board and staff extend sympathy to Mrs. Anderson and her family.

Cora R. Arduengo, No. 50, originally from Peoria, Illinois, has recently completed 31 years with Civil Service.

"When I received my accounting license in 1946, my husband was in pilot training and I was employed by an accounting firm in Waco." When her husband transferred, Mrs. Arduengo transferred with him.

"From Waco we moved to Williams AFB, Arizona, where I worked in the Budget and Fiscal Office, preparing base budgets and controlling appropriated and non-appropriated funds. Our next stop was Vernon AFB in Jamaica, British West Indies, where I was Chief Accountant and Manager of all base exchange facilities, including the cafe, beer garden, bowling alley, photo shop, tailor shop, and main exchange."

Other assignments have included accounting work at Fort Stewart, Georgia; Keesler AFB, Mississippi; and, presently, Chief of Accounts Control, Moody AFB, Georgia.

L.A. Busby, No. 101, 80, a native Texan (Mart, in McLennan County), writes, "My public accounting began on

an individual basis in 1926, and later I was on the temporary staff of Haskins and Sells. In 1956 I went with Peat, Marwick, Mitchell and later opened my office in downtown Dallas and formed a partnership with my son at the end of his Navy service. I was senior partner of the firm of Howard L. Busby Co. until merging with Cheatham, Brady & Lafferty in 1969. I am an associate life member of the latter firm."

Frank A. Brooks, No. 105, was born in Giddings and is now a resident of Dallas. "I will be 73 come August 18 this year. I no longer practice accounting, but still do a limited number of income tax returns. My 50 years of active practice were mostly related to oil and gas accounting and the related state and federal taxation. My principal activity now is backyard gardening."

Dorothy N. Snelson, No. 126, currently living in Jacksonville, Texas, was born in Colfax, Louisiana. She writes, "You asked for highlights in my career and, search as I may, I can't find a single one. I've simply buzzed along through accounting for bakeries, beauty shops, dress shops, grocery stores, ranches, packing plants, automobile dealerships, two night clubs and one dog food factory to school audits, city audits, one bankruptcy receivership and one estate settlement, not to mention all those tax seasons, each of which added its own stress mark. I've enjoyed it all, met a lot of interesting people with interesting businesses, and have seen a lot of changes in all areas, but there is not a highlight in the lot. I still serve a few long-time clients -- one dating from 1949 and another from 1951, plus a few later ones. The rest of my time I spend digging in my yard, reading, listening to my collection of records and tapes, and taking short trips."

The BOARD REPORT finds "highlights" in each of the careers and congratulates these Public Accountants on their long and worthy contributions to the accounting profession.

STATISTICAL DATA

License Renewal Form Data

Data provided by licensees on the 1981 license renewal notices has been compiled by the staff. One surprising finding was the relatively small percentage of licensees involved in the practice of public accounting; another was the substantial number of licensees who indicated no continuing education hours earned during the previous year.

In reviewing the following statistics, it should be kept in mind that some licensees failed to respond to any of the questions asking for statistical information. As a result, the data is incomplete and therefore less than totally reliable.

Licensees were asked to enter the number of continuing education hours, to indicate the field of activity in which engaged, and to identify areas of practice within the field of activity. Compilation of these figures indicates:

	CPAs	Public Accountants	Sec. 14 Licensees
Continuing Education			
No hours	43.6%	85.8 %	61.8 %
1-20 hours	10.6	6.5	7.4
21-40 hours	20.4	4.0	19.0
Over 40 hours	25.4	3.7	11.8
Field of Professional Activity			
Public Accounting	40.2	54.5	54.7
Industry	33.8	7.2	24.5
Government	6.2	3.9	5.7
Education	6.3	19.1	1.9
Other	13.5	15.3	13.2
Public Accounting - Areas of Practice			
Audit	27.8	18.4	23.3
General Accounting	22.3	33.1	23.4
MAS	11.4	2.6	15.6
Tax	30.5	36.5	27.3
Other	8.0	9.4	10.4

The 1982 renewal form will again request statistical data. In order that 1982 statistics may be more reliable, licensees are asked to make every effort to complete all blocks on the form as accurately and completely as possible.

In response to numerous requests, the form will include a block for "retired" status. Licensees who will be 66 years of age or older as of January 1, 1982, and who are retired (not involved in accounting on either a full-time or part-time basis) may check the retired block and therefore be eligible for a reduced license fee of \$10.00.

Examination Statistics

The significant growth that continues in the number of examination candidates is evident from the following statistics, which compare May, 1981, data with that of May, 1980:

General Statistics	May			
	1981	1980		
Total applications processed	8,611	7,840		
Initial exam candidates	2,721	2,659		
Reexam candidates	5,845	5,181		
Transfers	43	0		
Total applicants who sat	7,516	6,906		
Pass-fail by Parts				
	May, 1981		May, 1980	
	Passing	Failing	Passing	Failing
Audit	1,412	4,142	1,373	3,785
Law	1,577	3,758	1,388	3,567
Theory	1,447	3,852	1,443	3,542
Practice	1,356	3,539	1,280	3,244

ENFORCEMENT

Reinstatements

Jose L. Exito, Jr. - application for reinstatement of certificate was approved at the July, 1981, Board Meeting.

Disciplinary Actions

Respondent: Weaver, George E. (Certificate No. 3751)

Date of Board Hearing: June 29-30, 1981

Question: (1) Whether comparative financial statements that failed to disclose a judgment liability of \$467,000 were in conformity with generally accepted accounting principles (GAAP). (2) Whether Respondent's failure to disclose a departure from GAAP in his report upon examination of the comparative financial statements constitutes gross negligence in the practice of public accounting and/or a violation of Rule 202 of the Rules of Professional Conduct. (3) Whether financial statements that failed to disclose a contingent liability in the form of pending litigation were in conformity with GAAP. (4) Whether Respondent's failure to disclose a departure from GAAP in his report upon examination of the financial statements in question constitutes gross negligence and/or a violation of Rule 202 of the Rules of Professional Conduct.

Board Ruling: (1) The comparative financial statements were not in conformity with GAAP, in that disclosure of a liability of \$467,000 was required under the circumstances. (2) Respondent's failure to disclose the departure from GAAP in his report constitutes gross negligence in the practice of public accounting in contravention of Section 21(a)(2) of the Public Accountancy Act of 1979 and a violation of Rule 202 of the Rules of Professional Conduct. (3) The financial statements were not in conformity with GAAP, in that disclosure of a contingent liability was required under the circumstances. (4) Respondent's failure to disclose the departure from GAAP constitutes gross negligence in the practice of public accounting in contravention of Section 21(a)(2) of the Public Accountancy Act of 1979 and a violation of Rule 202 of the Rules of Professional Conduct. Accordingly, the Board ordered Respondent's certificate revoked and required the surrender of certificate number 3751.

Respondent: Feldt, Leon (Certificate No. 3935)

Date of Board Hearing: June 30, 1981

Question: Whether Respondent's disbarment from practice before the Internal Revenue Service for failure to file personal federal income tax returns for six (6) years constitutes grounds for disciplinary action under Section 21(a)(8) of the Public Accountancy Act of 1979.

Board Ruling: Respondent's disbarment from practice before the Internal Revenue Service for failure to file personal federal income tax returns for six (6) years constitutes a cause which in the Board's opinion warrants disciplinary action under Section 21(a)(8) of the Public Accountancy Act of 1979.

Accordingly, Respondent's certificate No. 3935 and 1981 license were suspended for one (1) year and must be surrendered to the Board during the period of suspension.

Respondent: Romeros, Edward (Certificate No. 5396)

Dates of Board Hearing: January 29, 1981 and July 30, 1981

Question: (1) Whether Respondent's conviction of a felony under the laws of the United States, to-wit conspiring to misapply federal funds in violation of 18 U.S.C. § 371 and 42 U.S.C. § 2971f(a), in Cause No. B-78-270 in U.S. District Court is a ground for disciplinary action under Section 21(a)(5) of the Public Accountancy Act of 1979. (2) Whether Respondent's conviction of a felony under the laws of the United States, to-wit conspiring to make false statements to a bank in violation of U.S.C. §§ 371 and 1014, in Cause No. B-78-269-S1 in U.S. District Court is a ground for disciplinary action under § 21(a)(5) of the Public Accountancy Act of 1979.

Board Ruling: (1) Respondent's convictions in Cause Nos. B-78-270 and B-78-269-S1 are felonies under the laws of the United States. (2) Respondent's convictions in Cause Nos. B-78-270 and B-78-269-S1 were not "final convictions" at the time of the Board hearing on January 29, 1980. (3) The Board recessed the hearing until Respondent had completed his efforts to appeal his criminal convictions in Cause Nos. B-78-270 and B-78-269-S1. (4) At the Board hearing on July 30, 1981, it was determined that Respondent's convictions in Cause Nos. B-78-270 and B-78-269-S1 were final convictions for the purposes of Section 21(a)(5) of the Public Accountancy Act of 1979. Accordingly, Respondent's certificate was suspended until February 1, 1984, with completion of 120 hours of continuing education as a condition of reinstatement. Respondent was further required to return his CPA certificate and 1981 license.

Respondent: Hope A. Forrest (Registration No. A2791)

Date of Board Hearing: July 30, 1981

Question: Whether Respondent engaged in conduct indicating a lack of fitness to serve the public as a professional accountant in contravention of Section 21(a)(10) of the Public Accountancy Act of 1979 by permitting his nephew to practice public accounting under Respondent's registration and misleading the public as to the status of Respondent's nephew as a non-licensuree.

Board Ruling: Respondent's failure to correct potential public confusion concerning the status of his nephew constituted conduct indicating a lack of fitness to serve the public as a professional accountant in contravention of Section 21(a)(10) of the Public Accountancy Act of 1979. Accordingly, Respondent was ordered to cease and desist from conduct implying that his nephew is licensed to practice public accounting in the State of Texas and required to furnish evidence that certain parties were notified that Respondent's nephew cannot legally perform audits.

Respondent: Sonfield, Richard Huker (Certificate No. 8560)

Date of Panel Hearing: July 30, 1981

Question: (1) Whether failure to perform professional services (corporate federal income tax returns) after taking compensation in the form of an exchange of services constitutes gross negligence in the practice of public accounting in contravention of Section 21(a)(2) of the Public Accountancy Act of 1979. (2) Whether failure to return accounting and other records belonging to clients constitutes a violation of Rule 302 of the Rules of Professional Conduct. (3) Whether failure to respond to Board inquiries sent certified mail violates Rule 408 of the Rules of Professional Conduct.

Panel Ruling: (1) Failure to perform professional services after taking compensation in the form of an exchange of services constitutes gross negligence in the practice of public accounting in contravention of Section 21(a)(2) of the Public Accountancy Act of 1979. (2) Failure to return client's accounting and other records violates Rule 302, in that the Rule specifically requires the return of "any accounting records" obtained from or on behalf of the client. (3) Failure to respond to Board communications sent certified mail within thirty (30) days of mailing same violates Rule 408. Accordingly, the Panel proposed that Respondent's certificate No. 8560 be suspended for a period of three (3) years and that Respondent's 1981 license to practice public accounting be revoked. Further, the Panel proposed that Respondent be

required to surrender his certificate and 1981 license.

Date of Board Ratification: August 28, 1981.

Respondent: Armstrong, Vesper I., Jr. (Certificate No. 4330, Suspended)

Date of Panel Hearing: August 28, 1981

Question: (1) Whether Respondent's failure to comply with the Board's order requiring return of his Certificate No. 4330 to the Board warrants modification of the suspension of Respondent's certificate to a revocation of the certificate. (2) Whether the suspension of the certificate of Respondent warrants suspension or revocation of the registration of a professional corporation of which Respondent is the sole shareholder.

Panel Ruling: (1) Based on Respondent's return of Certificate No. 4330 by letter dated July 24, 1981, the failure to immediately return the certificate does not warrant modification of the suspension of same. (2) The suspension of the certificate of the sole shareholder of a professional corporation warrants suspension of the registration of the corporation. Accordingly, the panel proposed that the Board's order suspending Certificate No. 4330 for five (5) years be affirmed without modification. Further that the registration of Vesper I. Armstrong, Inc. be suspended for a period to run concurrent with the suspension of Respondent.

Date of Board Ratification: August 28, 1981.

MONTAG RECOGNIZED

FOR DISTINGUISHED SERVICE

Miller Montag, Board Secretary, CPA from San Antonio, was presented the Distinguished Service Award at the 1981 annual meeting of the Texas Society of CPAs in San Francisco. The award is granted on the basis of active participation in community, charitable, and civic activities on a local, state-wide, and national basis which favorably reflect on the Society and the accounting profession.

Mr. Montag is a partner with the firm of Deloitte Haskins and Sells and is a director of Texas-Wisconsin Oil Company. The BOARD REPORT joins in congratulating Mr. Montag on this notable recognition.

TO THE EDITOR:

Beginning with the next issue of the BOARD REPORT, a "Letters to the Editor" column will become a regular feature. The intent of correspondence included will be: 1) to capsule the thinking of a majority of those who write, 2) to render an objective minority opinion on an issue. 3) to provide insight on a topic of interest, or 4) to engender thought.

Please condense your comments as much as possible in order that several letters may be included per issue. The BOARD REPORT reserves the right to publish less than whole letters, although when feasible entire letters will be published. Only those letters specifically directed to the column will be considered for publication.

Your letters are solicited and should be directed to Jane I. Johnson, Editor, TEXAS STATE BOARD REPORT, 3301 Northland Dr., Suite 500, Austin, Texas 78731.

QUESTIONS AND ANSWERS

- Q.** May a licensee or firm of licensees publish a newsletter, tax booklet, or similar publication, and distribute it to clients of the firm?
- A.** Yes. Inasmuch as licensees have the right to advertise, the publication of a tax newsletter or tax booklet would be permitted so long as the published material does not contain a statement considered false, fraudulent, misleading, deceptive or unfair as defined in Rule 401.33.00.403A. Source - Rules 401.33.00.403A, and 401.33.00.404C.
- Q.** May a licensee or firm of licensees send a copy of the newsletter described above to persons other than clients of the firm with a cover letter?
- A.** A licensee may send such a publication and cover letter to nonclients, provided that they meet the definition of a "public communication" in Rule 401.33.00.022(14) which provides that "in the case of transmissions in written form, the names, addresses, and salutations inside the communication are considered a part of the message and must be in identical form." Source - Rules 401.33.00.022(14) and 401.33.00.403A.
- Q.** A licensee has been approached by a company that sells limited partnership interests (tax shelter investments) with the proposal that the licensee inform or recommend the investment to appropriate clients of the licensee's firm. If the licensee accepts a commission from the company, would such an arrangement violate Rule 401.33.00.103?
- A.** Yes. Rule 401.33.00.103 states that a licensee shall not accept a commission for a referral to a client of products or services of others. Source - Rule 401.33.00.103.

- Q.** Would the answer to the question above be any different if the "commission" were passed on to the client in the form of a discount on the licensee's fees for services to the client?
- A.** No. In order to pass the "commission" to the client in the form of a fee discount, the licensee would be deemed to have "accepted" the "commission" in violation of Rule 401.33.00.103. Source - Rule 401.33.00.103.

TEXAS STATE BOARD REPORT

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