

## **Regulatory Board Evaluation**

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### **Board of Accountancy**

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#### **State Regulation of Public Accountants Serves the Public Interest**

**The Board Needs to Improve in the Areas  
of Public Accessibility, Proper Completion  
of the Register, Roster and Annual Report**

**Due to the National Movement Towards a  
Computerized CPA Exam, West Virginia's  
CPA Exam Application Fee Is  
Disproportionate to Expenses**



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John Sylvia  
Director

June 13, 2004

The Honorable Edwin J. Bowman  
State Senate  
129 West Circle Drive  
Weirton, West Virginia 26062

The Honorable J.D. Beane  
House of Delegates  
Building 1, Room E-213  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Regulatory Board Evaluation of the *Board of Accountancy*, which will be presented to the Joint Committee on Government Operations on Sunday, June 13, 2004. The issues covered herein are "State Regulation of Public Accountants Serves the Public Interest;" "The Board Needs to Improve in the Areas of Public Accessibility, Proper Completion of the Register, Roster and Annual Report;" and "Due to the National Movement Towards a Computerized CPA Exam, West Virginia's CPA Exam Application Fee Is Disproportionate to Expenses."

We transmitted a draft copy of the report to the Board of Accountancy on May 26, 2004. We held an exit conference with the Board via telephone on June 3, 2004. We received the agency response on June 3, 2004.

Let me know if you have any questions.

Sincerely,

Handwritten signature of John Sylvia in cursive script.  
John Sylvia

JS/wsc

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*Joint Committee on Government and Finance*

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# Executive Summary

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## **Issue 1: State Regulation of Public Accountants Serves the Public Interest.**

Accountants are responsible for ensuring a systematic process for obtaining and assessing evidence regarding assertions made in financial statements. They are responsible for preparing, analyzing and verifying financial documents to provide information for clients and the public. Accountants are providing a broader range of services, such as budget analysis, financial management and consulting services. State licensure provides the public with the assurance that accountants are competent and receive continuing education each year. Accountants are not only subject to the regulatory oversight of state boards of accountancy that exist in all states, but to other governmental agencies and professional organizations. The Securities and Exchange Commission (SEC), the Public Company Accounting Oversight Board (PCAOB), and the American Institute of Certified Public Accountants (AICPA) all regulate the profession.

*Incompetent or unethical accountants could cause individuals and businesses relying on their services to incur financial losses.*

Incompetent or unethical accountants could cause individuals and businesses relying on their services to incur financial losses. Auditor assurances about company financial statements remove a barrier to the efficient use of capital and offer some protection to third party investors. Recent accounting scandals (such as WorldCom and Enron) and numerous revisions of previously issued financial statements indicate the need for the oversight of accountants. **Therefore, it is the Legislative Auditor’s opinion that licensure of this profession protects the public interest and should be continued.**

## **Issue 2: The Board Needs to Improve in the Areas of Public Accessibility, Proper Completion of the Register, Roster and Annual Report.**

The Board of Accountancy complied with such Chapter 30 requirements as setting fees by rules, maintaining a record of its proceedings, developing continuing education criteria, and meeting at least annually but compliance with other laws and rules can be improved upon.

The average length of time to complaint resolution, 147 days, is somewhat less than other professional licensing boards. Public access to the disposition of complaints, however, needs to be improved upon. The Board’s complaint log does not reflect the complaints disposition. A separate document, the Complaint Inventory and Disposition notebook, records the disposition. A note on the front of the document reads, “ Please note that

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this is a work product-for use as a reference by board members only-provided only for use of evaluators in this instance.” **The law requires public access to the disposition of complaints.** The public must have access to adequate record of complaints and their disposition. Receipt, investigation and resolution of complaints is one of the most fundamental duties of licensing boards. Disciplinary proceedings must not only protect the due process rights of licensees but the interests of the public. Given the trust put into accountants and the fact the one revocation occurred when the then licensee admitted to embezzlement, it is important the public have access to the nature and resolution of complaints. The Board should either make the Complaint Inventory and Disposition notebook publicly accessible or create an additional column in its complaint log detailing the disposition of complaints.

Public access could further be improved with further development of the Board’s website to include substantiated complaints against licensees, the nature of complaints received, and the ability to file a complaint electronically. Further, consistent proper filing of open meeting notices and annual reports, as well as the statutorily required register and roster need to be accomplished.

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*The law requires one member of the Board to be from the general public. This position has not been filled for two and a half years.*

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The law requires one member of the Board to be from the general public. **This position has not been filled for two and a half years.** Having such a member on the Board provides a balance between the expertise the regulated practitioners are intended to provide and the independent judgement a public member is able to render. The Legislative Auditor recommends the Board promptly inform the Governor of the need to fill this vacancy.

The Board is financially self-sufficient as required by West Virginia Code §30-1-6(c). The Board had an ending cash balance for FY 2003 of \$214,884 with average annual expenditures of approximately \$336,184 for the last three years.

**Issue 3: Due to the National Movement Towards a Computerized CPA Exam, West Virginia’s CPA Exam Application Fee Is Disproportionate to Expenses.**

West Virginia, along with the rest of the country, has switched from providing a written test twice annually to having computerized testing provided at nationwide testing centers eight months out of the year. This takes the responsibility, and cost, of providing the examination out of the hands of state licensing boards. In administering the written exam the Board reviewed exam candidate applications while also paying the costs for the rental of an exam site, grading and developing the exam, proctors, security and moving exam materials between the Board office and exam site. As the Board’s yearly

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expenses have been reduced by an average of \$74,787, it is the Legislative Auditor's opinion it does not need to maintain the charge of \$170. Considering an initial exam candidate will now be expected to pay about \$640 compared to the previous cost of \$170, it is important to be diligent in assessing the minimal costs necessary for board operation. The Legislative Auditor's concern is that Board of Accountancy is still going to charge applicants \$170 for an exam application fee and the \$40 per section re-examination fee, yet not incur the expenses involved with providing the exam. Thus it appears to be unnecessary to continue charging the same level of fees.

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*The Legislative Auditor's concern is that The Board of Accountancy is still going to charge applicants \$170 for an exam application fee and the \$40 per section re-examination fee, yet not incur the expenses involved with providing the exam.*

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## **Recommendations**

1. *The Legislative Auditor recommends that the Legislature continue the Board of Accountancy.*
2. *The Board should provide public access to the disposition of complaints in accordance with the provisions of §30-1-5 of the Code.*
3. *The Board should consider providing the opportunity to the public to file a complaint electronically or view a complaint resolution from its website.*
4. *The Legislature should consider amending §30-1-12(c) of the Code to require all Chapter 30 licensing boards to have a website in operation by January 1, 2006. Such website should consist of the required information listed in this issue and be accessible from the state's website.*
5. *The Board should properly file all meeting notices with the Secretary of State's Office.*
6. *The Board should inform the governor of the need to appoint a public member to the Board as soon as possible.*
7. *The Board should maintain the register as required by §30-1-12(a) of the Code.*
8. *The Board should maintain the roster as required by §30-1-13 of the Code.*

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9. *The Board should complete and file its annual report as required by §30-1-12(b) of the Code.*

10. *The Board should reduce the examination application fee and re-examination fee since it no longer incurs the costs of providing the licensure exams.*

# Review Objective, Scope and Methodology

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This Regulatory Board Evaluation of the Board of Accountancy is required and authorized by the West Virginia Sunset Law, Chapter 4, Article 10 of the West Virginia *Code*, as amended. The Board is intended to protect the public interest in receiving accurate and reliable financial information and assurance by licensing certified public accountants, public accountants, and accounting firms.

## Objective

The objective of this audit is to determine if the board is necessary for protecting the public safety, and whether or not the board is operating in compliance with the policies and provisions of Chapter 30 of *Code* and other applicable laws and rules.

## Scope

The scope of audit covers the period of FY2001 to the present, with mention of the role of accountants and federal laws regulating the practice of accountancy.

## Methodology

Information compiled in this report has been acquired through Board correspondence and conversations with Board staff. Documents obtained from the Board include : 1) Annual Reports to the Governor from 2001 to 2003; 2) Board Meeting Minutes from 2001 to 2003; 3) Board procedures for investigating and resolving complaints; and 4) Board procedure for verification of CPE units. Information was also obtained from the federal 2002 Sarbanes-Oxley Act, the General Accounting Office, and the Congressional Research Service. The review further included examination of West Virginia Code §30-9, §30-1, and Board budget documents. Every aspect of this review complied with Generally Accepted Auditing Standards (GAGAS).



# Issue 1

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## State Regulation of Public Accountants Serves the Public Interest.

This report is a *Regulatory Board Evaluation* which requires by law a determination of whether licensure is necessary for public protection. For the purposes of this report, the term “accountant” refers only to certified public accountants, public accountants and accounting firms. In determining if there is a need for licensure of accountants, a primary consideration is the extent to which significant and discernable adverse effects on public welfare would occur if regulation did not exist. **The Legislative Auditor finds that the licensing of certified public accountants, public accountants and accounting firms is necessary for protecting the citizens of West Virginia.**

Historically, the fundamental task of public accountants has been to prepare, analyze and verify financial documents to provide information to clients. Increasingly, a broader range of services, such as budget analysis, financial management and consulting services are tasks accountants fulfill for clients. Standards and procedures that accountants are held to vary depending on the service offered. For instance, audits of corporate financial statements are to be carried out in accordance with Generally Accepted Auditing Standards (GAAS).

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*State licensure provides the public with the assurance that accountants are competent and receive continuing education each year. Incompetent or unethical accountants could cause individuals and businesses relying on their services to incur financial losses.*

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Accountants, through their independent audit function, are relied on to provide assurances about the financial representations of company managers, offering some protection to third party investors. West Virginia Code states it is in the public interest to receive “accurate and reliable financial information and assurance” (§30-9-1) and therefore requires certified public accountants, public accountants and accounting firms to be licensed. Assurance, pursuant to WV Code §30-9-2 (1), is defined as,

*..any act or action, whether written or oral, expressing an opinion or conclusion about the reliability of a financial statement or about its conformity with any financial accounting standards.*

State licensure provides the public with the assurance that accountants are competent and receive continuing education each year. Incompetent or unethical accountants could cause individuals and businesses relying on their services to incur financial losses. Auditor assurances about company financial statements remove a barrier to the efficient use of capital and offer some protection to third party investors. Recent accounting scandals (such as WorldCom and Enron) and numerous revisions of previously issued financial statements indicate the need for the oversight of accountants.

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Accountants are not only subject to the regulatory oversight of state boards of accountancy that exist in all states, but to other governmental agencies and professional organizations. The Securities and Exchange Commission (SEC), the Public Company Accounting Oversight Board (PCAOB), and the American Institute of Certified Public Accountants (AICPA) all regulate the profession.

The SEC is an independent federal regulatory agency. It is responsible for administering federal securities laws and has the authority to regulate initial issuances of securities and their subsequent sale. For both initial issuances and subsequent sales, companies are required to submit financial statements that have been audited by an independent public accountant. While the SEC has relied on the AICPA to oversee accountants, the SEC can disqualify accountants. The SEC can also levy sanctions including peer review, requirements for continuing education and prohibit new engagements.

In 2002, United States Public Law 107-204, known as the Sarbanes-Oxley Act, mandated the PCAOB to oversee auditing of public companies (i.e., SEC registrants). The act prohibits auditing firms from providing certain consulting work for audit clients and requires rotation of audit partners at least every five years. Increased criminal penalties are included. The law was created in response to the questions about the adequacy of oversight of auditors raised by WorldCom and Enron. Though the PCAOB is not a federal agency, it is subject to SEC oversight. Among the issues being considered by the PCAOB are whether new auditing standards are required and whether additional consulting restrictions should be imposed on auditors.

The professional trade association of certified public accountants, the AICPA, is a voluntary organization for CPA's. Those who choose to be members are required to comply with provisions on independence, engagement standards, confidentiality, discreditable acts, etc. Violations can result in anything from continuing education to suspension or termination of membership. The organization establishes standards for the private sector.

## **Conclusion**

Accountants are responsible for ensuring a systematic process for obtaining and assessing evidence regarding assertions made in financial statements is followed. They are responsible for preparing, analyzing and verifying financial documents to provide information for clients and the public. Accountants are providing a broader range of services, such as budget analysis, financial management and consulting services. Licensure serves the public interest because it offers some protection to the public from the actions

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of incompetent and dishonest accountants. **Therefore, it is the Legislative Auditor's opinion that licensure of this profession protects the public interest and should be continued.**

### **Recommendation**

1. *The Legislative Auditor recommends that the Legislature continue the Board of Accountancy.*



## Issue 2

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### **The Board Needs to Improve in the Areas of Public Accessibility, Proper Completion of the Register, Roster and Annual Report.**

The Board of Accountancy has satisfactorily complied with some applicable state laws and rules. These laws and rules, primarily found within the Board's own enabling statute and in the general provisions of Chapter 30, are important in the effective operation of a licensing board. The Board has complied with the following requirements:

- A Board representative attended the orientation session provided by the State Auditor's Office in the required two year time frame (§30-1-2a);
- Officers are elected annually (§30-1-3(a));
- The Board meets at least once annually (§30-1-5(a));
- The Board follows due process in its investigation and resolution of complaints (§30-1-5(b));
- The Board has set fees by rule (§30-1-6(c));
- The Board has developed continuing education criteria, which includes course content, course approval, hours required and reporting periods (§30-1-7a(a));
- The Board has procedural rules that outline the procedures for investigation and resolution of complaints (§30-1-8(h));
- The Board maintains a record of its proceedings (§30-1-12(a)); and
- The Board has a listing in the state government section of the Charleston area telephone book (§30-1-12(c)).

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## **Length of Time for Complaint Resolution Is Comparable to Other Licensing Boards, However, the Board Has Had a Few Complaints that Have Taken a Long Time to Resolve**

During the time period of FY 2001 through January 2004, the average length of time to resolve a complaint was 147 days, ranging from 12 to 686 days to resolution. The complaint taking 686 days to resolve related to a suspension of a license. The licensee, also a member of the national professional association, was alleged to have violated the associations ethics standards. The licensee entered into a settlement agreement with the association. The Board voted to suspend the licensee until the terms of the settlement agreement with the association had been fulfilled by the licensee. A consent order between the Board and the licensee was sent detailing the specifics of the suspension. The consent order was not agreed to by the licensee. The case was dismissed with prejudice in January 2004 after receipt of confirmation of continuing education in ethics courses. While the average of 147 days is comparable to other licensing boards that the Legislative Auditor has evaluated, outlying days to resolution of more than a year needs to be improved upon.

*During the time period of FY 2001 through January 2004, the average length of time to resolve a complaint was 147 days, ranging from 12 to 686 days to resolution. The complaint taking 686 days to resolve related to a suspension of a license.*

Currently, the oldest outstanding complaint is more than 3 years old, the most recent about 2.5 years. The 3 year old complaint involves alleged improper practices at Keystone Bank. As a federally insured entity, the FDIC is involved in the investigation of the practices that occurred. When the Board first received correspondence from the FDIC in October of 1999, it did not perceive the correspondence to be a complaint. When the Board was contacted by the National Association of State Boards of Accountancy in December 2000, it changed its understanding of the FDIC correspondence. At that time, the Board acknowledged the FDIC's correspondence and made contact with an individual named in the FDIC correspondence to seek identity of the licensees involved. The FDIC continues to make contact with the Board's attorney general legal representative. The 2.5 year old complaint involved a non licensed CPA who was alleged to have illegally advertised. This was the second complaint the Board had received against the individual alleging the same practice. When the second complaint was received, the Board advised staff to again inform the individual that the law requires persons holding themselves out to be a CPA to be licensed, making reference to the first complaint. In error, the staff failed to follow through and did not notify the individual of the complaint received against them. The Legislative Auditor's staff was informed that staff will now do so. It should be noted that during this time period, the Board received no more than twelve complaints in a year (see Table 1).

<b>Table 1</b>				
<b>Complaints Filed, FY 2001 - 2004*</b>				
<b>Fiscal Year</b>	<b># of Complaints</b>	<b>Continued</b>	<b>Closed</b>	<b>Revocation</b>
2001	10	2	7	1
2002	12	2	10	0
2003	4	1	3	0
2004*	4	-	-	-

\*As of January 20, 2004

*While the Board of Accountancy's website is good, the Legislative Auditor recommends further development of the website by including the number of substantiated complaints, if any, against licensees and the nature of complaints as well as the ability to file a complaint electronically.*

### **Other States are Beginning to Provide Complaint Dispositions on Their Websites**

While the Board of Accountancy's website is good, the Legislative Auditor recommends further development of the website by including the number of substantiated complaints, if any, against licensees and the nature of complaints as well as the ability to file a complaint electronically. Some surrounding states are showing the disposition of complaints against licensed accountants. Table 2 below illustrates the information concerning disciplinary actions taken against licensees that West Virginia and bordering states provide on their respective web sites.

<b>Table 2</b>			
<b>Availability of Disciplinary Actions On-line by Accountancy Boards</b>			
<b>State</b>	<b>None</b>	<b>Plans to Provide</b>	<b>Licensee Name, Board action, Revocations, etc.*</b>
Kentucky	✓		
Maryland		✓	
Ohio			✓
Pennsylvania			✓
Virginia	✓		
West Virginia	✓		

\*Examples of what appears on the state's web page can be seen in Appendix B  
Source: KY - [www.cpa.ky.gov](http://www.cpa.ky.gov), MD - [www.dlr.state.md.us/license/occp/occp/account.html](http://www.dlr.state.md.us/license/occp/occp/account.html), OH - [www.acc.ohio.gov/](http://www.acc.ohio.gov/), PA-[www.dos.state.pa.us/account](http://www.dos.state.pa.us/account), VA- [www.boa.state.va.us](http://www.boa.state.va.us) and WV - [www.state.wv.us/wvboa/](http://www.state.wv.us/wvboa/)

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Several Chapter 30 licensing board reviews in 2003 contained recommendations that all licensing boards be required to have a website. At a minimum a licensing board website should be required to have a list of all current licensees; the number of substantiated complaints against each licensee; a complaint form that can be downloaded or the ability to file complaints electronically, or both; and a link to the state's website.

It is the Legislative Auditor's opinion that the website of licensing boards should also have the following elements:

1. Where a licensee received the required education;
2. When a licensee completed the required education; and
3. When a licensee was licensed.

Other state boards of accountancy websites have on-line functions that West Virginia should consider implementing. For instance Kentucky, Maryland, Ohio and Virginia all offer licensees the capability of notifying their Boards electronically of address or contact information changes through an on-line form. Other electronic services offered by Maryland include on-line registration for the CPA exam and access to exam grades, initial reciprocal licenses and license renewal forms. Pennsylvania allows the public to file complaints on-line and also has on-line license renewal and an on-line application for initial licensure. Virginia requires license renewal and payment to be done electronically.

### **The Board Needs to Properly File Open Meeting Notices**

The filing of open meeting notices could be improved, increasing public access, as a few meetings were not properly filed with the Secretary of State's Office. The Board provided the Legislative Auditor with meeting minutes for which the Secretary of State has no record of notice. Notices not filed with the Secretary of State's Office in the prescribed manner hinders public access and could potentially put any action of the Board in question. During these meetings where notices were not filed properly, the Board made decisions including those about complaints filed against licensees and about continuing education approval. These actions illustrate the importance Board actions can take in any given meeting. Table 3 indicates the number of meeting notices filed properly and those either not filed or not filed in compliance with the Open Governmental Proceedings Act.

<b>Table 3</b>				
<b>Open Meeting Notices, 2001 - 2004*</b>				
<b>Description</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004*</b>
Notices Filed In Compliance	2	4	1	1
Notices Filed Late	2	0	1	0
Notices Not Filed	0	0	1	0
*Data as of February 17, 2004				

### **The Board's Citizen Member Position Is Vacant**

*Having a citizen member on the Board provides a balance between the expertise the regulated practitioners are intended to provide and the independent judgement a public member is able to render.*

WVC §30-9-3(b)(1) requires that one member of the Board represent the public. This citizen member is to be a state resident who is not a licensee of the Board and who is not a bookkeeper, enrolled agent or a person who provides or offers to provide the public any bookkeeping, tax preparation, financial advisory or insurance service. **This position has not been filled for two and a half years.** Having a citizen member on the Board provides a balance between the expertise the regulated practitioners are intended to provide and the independent judgement a public member is able to render. The Board should inform the governor of the need to fill this vacancy.

### **The Board is Financially Self-Sufficient**

The Board is financially self-sufficient as required by WVC §30-1-6(c). The Board had an ending cash balance for FY 2003 of \$214,884 with average annual expenditures of approximately \$336,184 for the last three years.

<b>Table 4</b>			
<b>Revenues and Expenses, FY 2001 - 2003</b>			
<b>Fiscal Year</b>	<b>Actual Revenues</b>	<b>Actual Expenditures</b>	<b>EOY Cash Balances</b>
2001	\$300,921	\$335,548	\$270,608
2002	\$264,166	\$345,835	\$188,938
2003	\$353,114	\$327,168	\$214,884

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## Register and Roster Are Incomplete

A Board register of all applicants was requested by the Legislative Auditor. Under WVC §30-1-12(a), the register of a Board is required to detail all individuals who have applied for licensure, including whether a license was granted, any suspensions, and qualifications for licensure. The Board responded to the Legislative Auditor's request for the register by indicating it has maintained a handwritten "little black book" since 1941. This book lists the name, date and number of the applicant. This book does not meet the statutory requirements. The following data are required to be in the register: the names of all applicants for licensure, age of applicant, place of residence, educational and other qualifications, whether an exam was required, date of application, whether application was granted or rejected and the date of such action, license number, all renewal dates, and any suspensions and/or revocations.

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*Under WVC §30-1-12(a), the register of a Board is required to detail all individuals who have applied for licensure, including whether a license was granted, any suspensions, and qualifications for licensure.*

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The Board indicated it created a database system in May 2003, which lists those applicants who successfully complete the examination and are subsequently certified. According to the Board, applicants who fail to successfully complete the exam or otherwise decline to continue as a candidate, are classified as inactive. The Office of the Legislative Auditor was informed that in November 1990, the Board authorized the purging of all applications which had become inactive. The information required by §30-1-12(a) is thus not available. The Legislative Auditor recommends the Board of Accountancy develop this document in accordance with law for all new applicants and those on whom it does have applications.

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*The roster of licensed practitioners, required by §30-1-13, is to be arranged both alphabetically by name of practitioner and by city or county where offices are located.*

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The roster of licensed practitioners, required by §30-1-13, is to be arranged both alphabetically by name of practitioner and by city or county where offices are located. The provided roster is arranged alphabetically by name, but is not also arranged by the city or county where offices are located. As of March 8, 2004 the Board of Accountancy had licensed 2,459 certified public accountants and 31 public accountants. The Board had issued 258 firms permits which allows business entities (owned or having membership interests by two or more licensed accountants) to practice in the state.

## Annual Reports Are Incomplete and Filed Late

As required in §30-1-12(b), licensing boards are required to submit to the governor and the Legislature on or before the first day of January each year a report. This report is required to have its transactions for the preceding two years including: an itemized statement for its receipts and disbursements, a full

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*The annual report is required to have its transactions for the preceding two years including: an itemized statement for its receipts and disbursements, a full list of the names of all persons licensed or registered during those two years, statistical reports by county of practice and a list of any complaints which were filed against licensees, including any action taken by the Board regarding those complaints.*

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list of the names of all persons licensed or registered during those two years, statistical reports by county of practice and a list of any complaints which were filed against persons licensed by the Board, including any action taken by the Board regarding those complaints. A copy of the report is required to be filed with the Secretary of State and the Legislative Librarian. The Board's annual reports of 2001, 2002 and 2003 do not appear to be for the preceding two year periods, only for one preceding year. None of the required statistical reports by county are included. Complaints against individual licensees and accompanying Board action are not listed. The number of new complaints received and how many complaints the Board closed, dismissed, or continued the complaint is shown.

Evidence suggests the Board filed the 2001, 2002 and 2003 annual reports with the Governor's Office and filed a copy with the Secretary of State's office late. During the scope of the audit the annual reports were filed late ranging from two weeks to four months after the January 1 statutory deadline.

## **Conclusion**

The Board has complied with some of the general provisions of Chapter 30 of the West Virginia Code. The Board meets regularly, is financially self-sufficient and maintains satisfactory records of its meetings. However, improvements are needed to public accessibility. Complaints and the register need to be maintained in a manner that is publicly accessible and in accordance with the requirements of statute. Also, the Board's register, roster and annual report need to meet the requirements of statute.

## **Recommendations**

2. *The Board should provide public access to the disposition of complaints in accordance with the provisions of §30-1-5 of the Code.*
3. *The Board should consider providing the opportunity to the public to file a complaint electronically or view a complaint resolution from its website.*
4. *The Legislature should consider amending §30-1-12(c) of the Code to require all Chapter 30 licensing boards to have a website in operation by January 1, 2006. Such website should consist of the required information listed in this issue and be accessible from the state's website.*

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5. *The Board should properly file all meeting notices with the Secretary of State's Office.*

6. *The Board should inform the governor of the need to appoint a public member to the Board.*

7. *The Board should maintain the register as required by §30-1-12(a) of the Code.*

8. *The Board should maintain the roster as required by §30-1-13 of the Code.*

9. *The Board should complete and file its annual report as required by §30-1-12(b) of the Code.*

## Issue 3

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### **Due to the National Movement Towards a Computerized CPA Exam, West Virginia's CPA Exam Application Fee Is Disproportionate to Expenses.**

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*Applicants will now pay NASBA a fee of \$470 to take the exam and they will still pay the Board \$170. Although the Board has less responsibilities in administering the exam.*

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The Board of Accountancy formerly administered the CPA exam twice a year in West Virginia, the last time was in November 2003. Exam candidates paid the Board a fee of \$170 to cover the Board's administrative costs of giving the exam, such as expenses to rent a facility, and a primary expense of paying AICPA for developing and grading the CPA exam. The large majority of costs are shown below in Table 5. Beginning in 2004, the CPA Examination is computerized, and the Board will no longer give the exam. Instead, the National Association of State Boards of Accountancy (NASBA) will coordinate the administration of the exam, and exam candidates will pay an exam fee directly to NASBA. The only expenses the Board will incur as they relate to the exam are the undetermined expenses associated with receiving exam applications, reviewing applicant eligibility, and notifying AICPA of eligible candidates. However, during the 2004 rule making process, the Board's rules were amended to reflect the new fees that licensees will pay directly to NASBA, and **the Board maintained the \$170 fee that was charged when it formerly administered the exam. In effect, applicants will now pay NASBA a fee of \$470 to take the exam and they will pay the Board \$170, for which the Board will incur significantly less expenses than when it administered the exam.**

<b>Table 5</b>		
<b>Exam Receipts and Disbursements, FY 2003</b>		
	November 2002	May 2003
<b>Major Disbursements</b>		
Receive Exam Applications, Review Applicant Eligibility, Notify AICPA of Eligible Candidates	Undetermined	Undetermined
Hall Rental	\$3,900.00	\$3,900.00
PA System	\$100.00	\$100.00
Security	\$143.00	\$283.25
Labor	\$348.00	\$348.00
Moving Company	\$122.50	\$397.75
WV Society of CPA's - Proctors	\$2,800.00	\$3,000.00
Refreshments	\$523.00	\$430.66
Board member costs	\$1,467.84	\$1,740.29
Paid to AICPA	\$31,410.66	\$27,182.87
<b>Disbursements</b>	<b>\$78,197.82</b>	
<b>Exam Receipts</b>	<b>\$73,195</b>	
<b>Net</b>	<b>(\$5,002.82)</b>	
<i>Source: West Virginia Board of Accountancy, West Virginia State Auditor's Office.</i>		

*In administering the written exam, the Board also paid for the rental of an exam site, paid AICPA to grade exams and for AICPA's development of the national exam, paid for proctors, security and for the moving of exam materials between the Board office and the exam site. These were direct costs for services totaling on average nearly \$75,000 that the Board will no longer incur.*

When the Board was administering the exam, it received exam applications, reviewed applications for eligibility, and notified AICPA of eligible candidates. This process will continue with the exception that the Board will now notify NASBA rather than AICPA. In administering the written exam, the Board also paid for the rental of an exam site, paid AICPA to grade exams and for AICPA's development of the national exam, paid for proctors, security and for the moving of exam materials between the Board office and the exam site. These were direct costs for services totaling on average nearly \$75,000 that the Board will no longer incur. For FY 2003, costs exceeded revenues by more than \$5,000. In FY 2002, revenue exceeded costs by more than \$8,000.

The Board was asked what expenses it would incur (or had occurred) in reporting eligible exam candidates to NASBA. The Board responded by indicating that it purchased a Digital Subscriber Line (DSL) to enhance its

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ability to transmit required candidate information to NASBA. The telephone company advised the charge for DSL would be \$79.85 a month. The Board was unable to state what other expenses it might incur.

The Board was also asked what it expected revenue would be, given that it will be collecting the same exam fee with less exam expenses. In response to this question, the Board wrote:

*At this point in time it would be difficult to make a projection regarding anticipated revenue with the cessation of exam expenses from the examination. Perhaps after the CBT [computer based test] examination has operated one year we may be in a better position to respond to this question.*

## **Conclusion**

West Virginia, along with the rest of the country, has switched from providing a written test twice annually to having computerized testing provided at nationwide testing centers eight months out of the year. This takes the responsibility and most of the costs of providing the examination out of the hands of state licensing boards. However, development costs, the convenience of an electronic exam and more frequent exam dates has lead to an increase in the fees paid to take the exam. In the case of West Virginia, these fees are paid by the applicant directly to NASBA. **The Legislative Auditor's concern is that the Board of Accountancy will continue to charge applicants \$170 for an exam application fee, yet not incur most of the expenses involved with providing the exam. Thus applicants will be paying an unnecessary fee of \$170.**

The Legislative Auditor acknowledges that there may be undetermined and potentially unforeseen costs with the new exam format. However, these costs should be significantly lower than the costs of the former written exam process. The costs that the Board knows it will not incur are significant enough to suggest that the Board can reduce the fee significantly for its exam applicants. Adjustments to the fee can be made once the Board has a better understanding of what its costs will be under the new exam format. Considering an initial exam candidate will now be expected to pay about \$640 (\$470 to NASBA to take the exam and \$170 to the Board to apply) compared to the previous cost of \$170, it is important to be diligent in assessing the minimal costs necessary for board operations.

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## **Recommendation**

10. *The Board should reduce the examination application fee and re-examination fee to an amount that is compensable to estimated expenses of processing exam applications.*

# Appendix A: Transmittal Letter

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## WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0610  
(304) 347-4890  
(304) 347-4939 FAX



John Sylvia  
Director

May 26, 2004

Jo Ann Walker, Executive Director  
Board of Accountancy  
122 Capitol St., Suite 100  
Charleston, WV 25301

Dear Mrs. Walker:

This is to transmit a draft copy of the Regulatory Board Evaluation of the Board of Accountancy. This report is scheduled to be presented during the June 13-15, 2004 interim meeting of the Joint Committee on Government Operations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. Please contact us at 347-4890 to set up the exit conference. In addition, we need your written response by noon on June 3, 2004 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, June 10, 2004 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your Board. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

Enclosure

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*Joint Committee on Government and Finance*

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# Appendix B:

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## Disposition of Ohio Disciplinary Hearings

<<http://www.acc.ohio.gov/images/main.gif>>

Disciplinary Hearings Held by Accountancy Board: 1990-present  
Including Charge(s), Hearing Outcome, and Date of Board Action

Following are actions taken by the Accountancy Board as a result of formal hearings conducted under Chapter 119 of the Ohio Revised Code. Several hundred individuals are also the subject of disciplinary action due to various compliance violations of a technical nature; those individuals are not included here, nor are formal hearings conducted for those individuals. Please check this Web site or call the Accountancy Board office if you have a question concerning the license status of an Ohio CPA or PA. Our telephone number is 1-614-466-4135.

NAME OHIO REVISED CODE VIOLATION BOARD ACTION DATE

Albers, Richard, CPA. 4701.16(A)(4) and (A)(10)-Failure to comply with continuing education requirements. CPA certificate revoked. 2001 Oct 25

Bruce H. Arps, CPA. 4701.16(A)(5)-Convicted of aggravated theft. CPA certificate indefinitely suspended. 1992

Feb 3

Austin & Associates, Inc. 4701.16(A)(11)-Failure to comply with firm registration requirements. Fine of \$500. 2003 Jun 24

P. Thomas Austin, CPA 4701.16(A)(1)-Failure to verify continuing education. Fine of \$100. 2002 Aug 2

Azar, Kenneth J., Jr., CPA. 4701.16(A)(5)-Wire fraud; bank fraud. CPA certificate revoked. 2001 Oct 25

Mark E. Bailey, CPA. 4701.16(A)(5)-Convicted of receiving stolen property. CPA certificate revoked. 2001 Apr 24

Ronald Beach, CPA. 4701.16(A)(4), (A)(1)-Failure to respond to Board communications, fraud or deceit in obtaining a license. CPA certificate revoked. 2003 Nov 3

Daniel P. Belda, CPA. 4701.16(A)(11)-Failure to comply with firm registration requirements. CPA certificate and firm registration revoked. 2001 Sep 5

Andrew R. Bevan, CPA. 4701.16(A)(4)-Failure to respond to Board communications. Fine of \$1,000. 2003 Sep 15

Edward Biesiada, CPA 4701.16(A)(2)-Gross negligence in the practice of public accounting. CPA certificate revoked. 2002 Nov 1

Timothy M. Bourke, CPA. 4701.16(A)(5)-Convicted of theft. CPA certificate revoked 1996 Aug 5. Reinstated, currently in good standing. 1997 Apr 28

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Charles E. Brown, CPA. 4701.16(A)(5)-Convicted of gross sexual imposition. CPA certificate revoked. Fined \$1,000. 1996 Dec 10

## **Disposition of Pennsylvania Disciplinary Hearings**

FOR IMMEDIATE RELEASE

CONTACT: Allison Hrestak or Brian McDonald (717) 783-1621

## **State Business Licensing Boards Release Actions - (1<sup>st</sup> Quarter 2004)**

HARRISBURG (April 13, 2004) – Commonwealth Secretary Pedro A. Cortés and Basil Merenda, Commissioner of the State Department’s Bureau of Professional and Occupational Affairs, today announced 56 disciplinary actions taken by the following state boards between October 2003 and March 2004: Accountancy; Architects; Auctioneer Examiners; Barber Examiners; Certified Real Estate Appraisers; Cosmetology; Funeral Directors; Landscape Architects; and Professional Engineers, Land Surveyors and Geologists.

Actions were taken against individuals or firms in the following counties:

Allegheny (1 action); Armstrong (1 action); Berks (1 action); Blair (1 action); Bucks (1 action); Chester (4 actions); Columbia (1 action); Crawford (2 actions); Cumberland (1 charge); Dauphin (3 actions); Lackawanna (2 actions); Lancaster (1 action); Lehigh (2 actions); Luzerne (1 action); Mercer (1 action); Montgomery (3 actions); Northampton (3 actions); Philadelphia (11 actions); Schuylkill (3 actions); Washington (1 action); York (2 actions). A total of 10 actions involved Pennsylvania licenses with out-of-state addresses.

2004

## **STATE BUSINESS LICENSING BOARDS RELEASE ACTIONS**

### **The State Board of Accountancy imposed the following sanctions:**

**Kenneth Steven Shapiro, CPA (certificate no. CA-013872-L), of Bala Cynwyd, Montgomery County, had his certificate of certified public accountant and current license revoked, effective November 10, 2003, based on findings that the U.S. Securities and Exchange Commission and Pennsylvania Securities Commission had barred him from the securities industry for engaging in fraudulent conduct. The case is**

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**currently on appeal to Commonwealth Court. (10-10-03)**

**William Shapiro (certificate no. CA-002865-L), of Wynnewood, Montgomery County, had his certificate of certified public accountant revoked based on findings that the U.S. Securities and Exchange Commission and Pennsylvania Securities Commission had barred him from the securities industry for engaging in fraudulent conduct. The case is currently on appeal to Commonwealth Court. (10-10-03)**

**Michael S. Bookbinder, certificate no. CA-026210-L, of Cherry Hill, NJ, was assessed a \$150 civil penalty for failing to timely complete his continuing education requirement for the 2000-2001 reporting period. (12-10-03)**

**Bruce D. Emig, certificate no. CA-0017118-L, of Easton, Northampton County, had his certificate of certified public accountant suspended and was assessed a \$4,000 civil penalty based on findings that he practiced public accounting without a current license. Reinstatement of Emig's certificate is conditioned on his payment of the civil penalty and meeting the requirements for current licensure. (12-10-03)**

**Gabriel P. Genovese, CPA (certificate no. CA-039836-L), of Bloomsburg, Columbia County, was assessed a \$150 civil penalty for failing to complete at least 20 hours of continuing education during 2000. (12-10-03)**

**John Martin Kilroy, certificate no. CA-017253-L, of Phoenixville, Chester County, was reprimanded for failing to disclose an impairment of independence with respect to an attest engagement. (12-23-03)**

**James Michael Olexa a.k.a. James Robert Gochoco, license no. CA-018573-L, of Mesa, Arizona, had his license revoked, retroactive to April 29, 2002, because he pled guilty to three (3) felonies which each had an element of dishonesty or fraud. (01-27-04)**

**Kathleen A. Barnhart, no license, of Titusville, Crawford County was assessed a civil penalty of two hundred fifty dollars (\$250.00), because she issued a financial report before she had the benefit of being a licensee of the State Board of Accountancy. (02-10-04)**

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**David Ilan Kobert, certificate no. CA-029442-L, of Collingswood, NJ, was assessed a \$1,000 civil penalty and ordered to complete 16 hours of make-up continuing education based on his failure to fulfill his continuing education requirement for the 1998-1999 reporting period. (02-11-04)**

**Loretta Pollock, certificate no. CA-036778-L, of Cherry Hill, NJ, was assessed a \$500 civil penalty for failing to pay a \$150 civil penalty in a prior disciplinary proceeding. Pollock's certificate will be suspended if she does not pay both civil penalties within 30 days. (02-11-04)**

# Appendix C: Agency Response

## West Virginia Board of Accountancy

122 Capitol Street, Suite 100  
Charleston, West Virginia 25301

Bob Wise, Governor



*Board Members:*  
Reed J. Tanner, CPA, President  
William M. Ellis, Jr., CPA, CMA, Vice-President  
Gayle E. Mason, CPA, Secretary  
Jack Rust, CPA  
John S. Bodkin, Jr., CPA  
Roy Richey, PA

Jo Ann Walker, Executive Director

RECEIVED  
JUN 03 2004

TO: BRIAN ARMENTROUT  
REGULATORY BOARD EVALUATION

PERFORMANCE EVALUATION AND  
RESEARCH DIVISION

Dear Mr. Armentrout:

I have received the draft copy of the Regulatory Board Evaluation of this agency.

Responding to the 10 Recommendations of the EVALUATION BOARD, please see the following responses:

1. THE LEGISLATIVE AUDITOR RECOMMENDS THAT THE LEGISLATURE CONTINUE THE BOARD OF ACCOUNTANCY.

The West Virginia Board of Accountancy agrees with this recommendation.

2. THE BOARD SHOULD PROVIDE PUBLIC ACCESS TO THE DISPOSITION OF COMPLAINTS IN ACCORDANCE WITH THE PROVISIONS OF §30-1-5 OF THE CODE.

The West Virginia Board of Accountancy will review and consider this recommendation for implementation at the next regularly scheduled Board Meeting.

3. THE LEGISLATIVE AUDITOR RECOMMENDS THAT THE BOARD SHOULD CONSIDER PROVIDING THE OPPORTUNITY TO THE PUBLIC TO FILE A COMPLAINT ELECTRONICALLY OR VIEW A COMPLAINT RESOLUTION FROM ITS WEBSITE.

The West Virginia Board of Accountancy will review and consider this recommendation for implementation at the next regularly scheduled Board meeting.

4. THE LEGISLATIVE AUDITOR RECOMMENDS THAT THE LEGISLATURE SHOULD CONSIDER AMENDING §30-1-12(c) OF THE CODE TO REQUIRE ALL CHAPTER 30 LICENSING BOARD TO HAVE A WEBSITE IN OPERATION BY ANUARY 1, 2006. SUCH WEBSITE SHOULD CONSIST OF THE REQUIRED INFORMATION LISTED IN THIS ISSUE AND BE ACCESSIBLE FROM THE STATE'S WEBSITE.

The West Virginia Board of Accountancy who currently has a website will consider this recommendation at this next regularly scheduled board meeting.

304/558-3557 + Fax: 304/558-1725 + E-mail: [wvboa@mail.wvnet.edu](mailto:wvboa@mail.wvnet.edu) + Web address: [www.state.wv.us/wvboa/](http://www.state.wv.us/wvboa/)

West Virginia  
Board of Accountancy

122 Capitol Street, Suite 100  
Charleston, West Virginia 25301



Board Members:  
Read J. Tanner, CPA, President  
William M. Ellis, Jr., CPA, CMA, Vice-President  
Gayle E. Mason, CPA, Secretary  
Jack Rasti, CPA  
John S. Bodine, Jr., CPA  
Roy Rishel, PA

Bob Wise, Governor

Jo Ann Walker, Executive Director

5. THE LEGISLATIVE AUDITOR RECOMMENDS THAT THE BOARD SHOULD PROPERLY FILE ALL MEETING NOTICES WITH THE SECRETARY OF STATE'S OFFICE.  
The West Virginia Board of Accountancy was unaware that some meeting notices were filed late or not at all. This Board will make every effort to submit such notices to the Secretary of State in a timely manner.
6. THE LEGISLATIVE AUDITOR RECOMMENDS THAT THE BOARD SHOULD INFORM THE GOVERNOR OF THE NEED TO APPOINT A PUBLIC MEMBER TO THE BOARD.  
The West Virginia Board of Accountancy will comply with this recommendation.
7. THE LEGISLATIVE AUDITOR RECOMMENDS THAT THE BOARD SHOULD MAINTAIN THE REGISTER AS REQUIRED BY §30-1-12(a) OF THE CODE.  
The West Virginia Board of Accountancy will review and consider this recommendation for implementation at the next regularly scheduled board meeting.
8. THE LEGISLATIVE AUDITOR RECOMMENDS THAT THE BOARD SHOULD MAINTAIN THE ROSTER AS REQUIRED BY §30-1-13 OF THE CODE.  
The West Virginia Board of Accountancy who currently provides a roster of licensed individuals and firms will correct the format of the roster to conform with requirement of §30-1-13 of the Code.
9. THE LEGISLATIVE AUDITOR RECOMMENDS THAT THE BOARD SHOULD COMPLETE AND FILE ITS ANNUAL REPORT AS REQUIRED BY §30-1-12(b) OF THE CODE.  
The West Virginia Board of Accountancy who has been filing an annual report annually will file the annual report as required by the Code and include previously omitted information.
10. THE LEGISLATIVE AUDITOR RECOMMENDS THAT THE BOARD SHOULD REDUCE THE EXAMINATION APPLICATION FEE AND RE-EXAMINATION FEE TO AN AMOUNT THAT COMPENSABLE TO ESTIMATED EXPENSES OF PROCESSING EXAMINATION APPLICATIONS.

304/558-3557 + Fax: 304/558-1725 + E-mail: wvboa@mail.wvnet.edu + Web address: [www.state.wv.us/wvboa/](http://www.state.wv.us/wvboa/)

West Virginia  
Board of Accountancy

122 Capitol Street, Suite 100  
Charleston, West Virginia 25301



Board Members:  
Reed J. Tanner, CPA, President  
William M. Ellis, Jr., CPA, CVA, Vice-President  
Gayle E. Mason, CPA, Secretary  
Jack Ross, CPA  
John S. Bodkin, Jr., CPA  
Roy Rishel, PA

Response to #10. The West Virginia Board of Accountancy can recognize and understand the concerns of the Legislative Auditor regarding the exam application fee and reduced expenses of the Examination. However, this Board needs to make the Evaluation Committee and Legislative Auditor aware that ....

A great deal of time and expense went into preparation for implementation of CBT testing

Board staff devoted more than 520 man hours exclusively toward implementation of CBT at a cost of \$10,000.

Board staff continues to spend additional time as a liaison resolving candidates issues with NASBA.

In addition to securing a DSL Line, computer equipment, new hardware, software, and computer system to make access to NASBA's system easier

It should be noted that NASBA has a service called CPACE (CPA EXAMINATION SERVICES). This service receives, processes and approves examination application for those Boards who contract for this service. CPACE charges an application administrative processing fee of \$145.00 in addition to the testing grading and seat fees.

Thirty six boards of accountancy of the 54 boards use CPACE. The remaining 18 boards handle their own processing.

It should be noted that our sister states - Ohio, Pennsylvania & Virginia all use CPACE. Kentucky charges a \$150.00 fee for a new candidate sitting for all parts. A first time candidate sitting for one part will pay a \$60.00 fee ( 30.00 processing and \$30.00 for the one part). Naturally the candidate will pay the required sitting testing and grading fee to NASBA. Maryland has a \$40.00 evaluation fee for eligibility review of an application. If approved the applicant pays the following fees. \$151 - Auditing, \$115. Business & E. Concepts, \$142 for FAR and \$125 for Regulation. These fees are above the fees charged by NASBA Auditing \$134.50, Business & E Concepts \$100.50, FAR -\$126. and Regulation -\$109.50

The North Carolina Board, while not a sister state, is used for comparison purposes. That Board has an application processing administrative fee of \$230.00 for first time candidates whether they sit for one or all four sections. Thereafter a fee of 75.00 is required.

The Board will give careful consideration to this recommendation after an evaluation of the first year's operation under CBT testing has ended.

A handwritten signature in dark ink, appearing to read "John S. Bodkin, Jr.", is written over the typed name in the signature block.

304/558-3557 + Fax: 304/558-1325 + E-mail: wvboa@nall.wvnet.edu + Web Address: www.state.wv.us/wvboa

