

ADDITIONS TO AGENDA
SOUTH DAKOTA BOARD OF ACCOUNTANCY
BOARD MEETING, August 19, 2010

A=Action
D=Discussion
I=Information

A-Additions to Certificates and Change on Firm Permits.....	2-3
A-Report to Board on Licensee Request for Peer Review.....	4-5
D-Report to Board on HHS – Database Issue.....	6-12
A-Addition to Peer Review.....	spt.pkt.

**CERTIFIED PUBLIC ACCOUNTANT CERTIFICATES
BOARD COPY**

Issued Through August 12, 2010

Number	Name	Date Issued	Location
2939	Zachariah T. Thies	7/15/10	Sioux Falls, SD
2940	Megan Marie Gough	7/15/10	Sioux Falls, SD
2941	Amber Christine Hoffmann	8/12/10	Aberdeen, SD
2942	Erica Kirsten Bjerrum	7/23/10	Sioux Falls, SD
2943	Stephanie Lynn Suhrbier	7/23/10	Sioux Falls, SD
2944	Matthew J. Saylor	7/26/10	Sioux Falls, SD
2945	Andrew H. Schuman	8/02/10	Chamberlain, SD
2716	Terry Hayberg Grant replacement certificate	8/30/06	Rapid City, SD
2946	Clay Tyler Noteboom	8/10/10	Sioux Falls, SD
2903	Kristie Lynn Hart replacement certificate	10/20/09	Aberdeen, SD

**FIRM PERMITS TO PRACTICE PUBLIC ACCOUNTANCY
BOARD COPY**

**Issued Through
August 12, 2010**

Number	Name	Date Issued	Basis/Comments
1481	Auten Accounting Solutions LLC Sioux Falls, SD	8/02/10	New Firm
1482	Wilson Downing Group, LLC Lakewood, CO	8/04/10	New Firm
1483	Wipfli LLP Milwaukee, WI	8/04/10	Additional Location
1485	LarsonAllen LLP Richardson, TX	8/04/10	Additional Location
1486	LarsonAllen LLP Mesa, AZ	8/04/10	Additional Location
1487	LarsonAllen LLP St. Louis, MO	8/04/10	Additional Location
1488	KPMG LLP New York, NY	8/04/10	Additional Location
1489	Deloitte Tax LLP Stamford, CT	8/04/10	Additional Location
1490	Wipfli LLP Eau Claire, WI	8/04/10	Additional Location
1491	Grant Thornton LLP Dallas, TX	8/04/10	Additional Location
1492	PricewaterhouseCoopers LLP Kansas City, MO	8/04/10	Additional Location
1493	PricewaterhouseCoopers LLP McLean, VA	8/04/10	Additional Location
1494	PricewaterhouseCoopers LLP Springdale, AR	8/04/10	Additional Location
1495	Walter B. Anderson, CPA Rapid City, SD	8/05/10	Name Change

Request from Licensee on Peer Review

The following request was sent by a licensee.

I am looking for some guidance with regard to peer review requirements in my situation.

I am currently employed with a management company (**Mgmt Co**) that serves various related entities. The ownership of these entities is as follows:

Mgmt Co: Partner 1: 100% (This is the company from which I receive compensation)

Companies A & W: Partner 1: 47.5%
Partner 2: 47.5%
Partner 3: 5.0%

Companies C & K: Partner 1: 50%
Partner 2: 50%

Company M: Partner 1: 50%
Partner 4: 50%

Company S: Partner 3: 59%
Partner 1: 14%
Partner 2: 14%
Partner 5: 13%

Company F: Company S: 79%
Partner 2: 21%

Company G: Company S: 18%
Partner 1: 68%
Partner 6: 10% (unrelated)
Partner 7: 3% (unrelated)
Partner 8: 1% (unrelated)

Company P: Company G 1%
Partner 9 99% (unrelated)

I prepare financial statements for these entities and submit them to third parties. Some are submitted with full disclosures (notes), and some are not submitted with full disclosures. When I do not issue them with full disclosures, I normally attach a cover letter disclosing any deviations from GAAP I am aware of, and giving the reader additional information such as ownership changes and any other significant items I believe would affect the reader's interpretation of the statements. I sign them as follows:

XXXXXXXX, CPA

Title

Name of Management Company

I have two basic questions with regard to the above-described scenario:

- 1) Do I fall under a peer review requirement? If so, which entities would need to be reviewed?
- 2) Should I be presenting these financial statements in standard compilation form? Or, can I continue to issue them as I described above? If I need to present them in standard compilation form, can I attach the additional information that I described above?

The ownership scenarios I described above are subject to change (including ownership changes and additional entities), and so it would be helpful if I understood how your evaluation criteria, so that I can apply it to my situation in the future.

REPORT TO BOARD ON HHS-DATABASE ISSUE

Nicole Kasin 8-17-10

The Board received correspondence from the Department of Health and Human Services in regards to reporting disciplinary actions against health care entities, providers, suppliers and practitioners.

As a response NASBA sent a letter to HHS, which follows, indicating that we license Certified Public Accountants and are not under the reporting authority of Sections 1921 and 1128E of the Social Security Act as indicated in the initial letter. On August 5, 2010 HHS responded to NASBA and sent the Board the response. The response, which also follows, indicates that all licensing boards are required to report disciplinary action to the National Practitioner Data Bank (NPDB) and/or the Healthcare Integrity and Protection Data Bank (HIPDB).

To be in compliance with the requirement of reporting, I registered the Board with the HIPDB on 8-17-10. I am waiting for an email confirmation of our registration.

We have not taken any disciplinary action against a health care entity, provider, supplier or practitioner. The board has also not taken disciplinary action against a CPA working in a health care entity. A letter will be drafted and sent to HHS to state this for the board.

Bureau of Health Professions

Nicole Olson-Kasin
Administrator
South Dakota Board of Accountancy
301 East 14th Street, Suite 200
Sioux Falls, South Dakota 57104

Dear Ms. Olson-Kasin:

On February 12, 2010, a letter was sent to your Governor from the Secretary, U.S. Department of Health and Human Services (HHS) and the Administrator of the Health Resources and Services Administration (HRSA) regarding efforts to improve the completeness and accuracy of data reported to the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB). The letter also stated that a report will be published by HHS by July 1, 2010, and annually thereafter that identifies governmental agencies failing to fulfill reporting requirements. A copy of this letter is attached. With the March 1, 2010, implementation of the final rule for Section 1921 of the *Social Security Act* (SSA), many of the actions reported to the HIPDB also are now posted and available for querying in the NPDB.

As required under Sections 1921 and 1128E of the SSA, State licensing authorities are required to submit, generally within 30 days, adverse licensing and certification actions, as well as negative actions and findings, taken against health care entities, providers, suppliers, and practitioners. These reportable actions or findings include both final actions and those taken as a result of formal proceedings. Recently, we conducted research to develop a list of current State Agencies and Licensing Boards responsible for licensing or certifying health care practitioners and facilities. The listing was compared to data reported to the NPDB and HIPDB to determine if all State Agencies and Licensing Boards report adverse actions for all types of licensed health practitioners and facilities. Through this analysis we have determined that your State Agency or Licensing Board is not reporting adverse actions on the following occupation(s):

- Accountants

We request that you immediately review the information listed above and either: (1) Supply a written explanation stating the reason that the professions or occupations listed above are not subject to the reporting requirements; (2) Report the actions taken by the State Agency or Licensing Board as required within 30 days of the date of this letter and within this same timeframe provide written notice to the Division of Practitioner Data Banks that you have done so and will continue to do so in the future; or (3) Provide a corrective action plan within 30 days of the date of this letter detailing how the State Agency or Licensing Board will meet HIPDB reporting requirements.

The corrective action plan must include provisions for the State Agency or Licensing Board to begin submitting missing data within 15 days of submission of the corrective action plan, an estimate of when all missing data will be reported and the steps that will be taken to ensure that future actions are reported as required. Please send this information directly to Ms. Bridgette Johnson, Compliance Coordinator, at bjohnson1@hrsa.gov. You can also contact her via phone at (301) 443-2300.

Failure to reply or submit a corrective action plan within 30 days of the date of this letter will result in the Secretary of Health and Human Services publishing the name of the State Agency or Licensing Board as out of compliance with reporting requirements. A *Federal Register* notice announcing the procedure of publication will be published by May 1, 2010. As will be further detailed in this *Federal Register* notice, a report will be published on the HRSA and Data Bank web sites by July 1, 2010. The report will include a list of those government agencies that are: (1) Out of compliance (failure to address their non-compliance); and (2) Working towards coming into compliance (i.e., have submitted a corrective action plan and begun reporting).

If you require assistance to determine if actions meet the Data Banks' reporting requirements, please visit our web site at www.npdb-hipdb.hrsa.gov. The web site contains the applicable statutes and regulations, as well as fact sheets and numerous Frequently Asked Questions that provide policy guidance. You may also contact the Customer Service Center at 1-800-767-6732 or help@npdb-hipdb.hrsa.gov to request assistance.

Thank you for reporting your disciplinary actions to the Data Banks as required. We appreciate your continued efforts to meet our joint mission of protecting the public by ensuring that the information in the Data Banks is accurate and complete.

Sincerely,

Mark S. Pincus, M.H.S.
Acting Director
Division of Practitioner Data Banks

Enclosure



National Association of State Boards of Accountancy

150 Fourth Avenue North ♦ Suite 700 ♦ Nashville, TN 37219-2417 ♦ Tel 615/880-4200 ♦ Fax 615/880/4290 ♦ Web www.nasba.org

May 20, 2010

Mr. Mark S. Pincus, Acting Director
Division of Practitioner Data Banks
BHP/HRSA/Department of Health and Human Services
5600 Fishers Lane, Room 8-103
Rockville, Maryland 20857

Dear Mr. Pincus:

I write on behalf of the National Association of State Boards of Accountancy (NASBA). The South Dakota Board of Accountancy and the North Dakota Board of Accountancy have brought to our attention some correspondence from your office seeking to require those boards to report disciplinary actions against their licensees to the National Practitioner Data Bank.

NASBA and its member boards are not unsympathetic to the objectives of the recent changes to the health care practitioner reporting requirements under the Social Security Act, but state boards of accountancy do not license or regulate "health care practitioners" as that term is defined in 42 U.S.C. §1320a-7e(g)(2). Furthermore, the state boards of accountancy do not meet the definition of "a government agency" found at 42 U.S.C. §1320a-7e(g)(3)(F) since they have no responsibility or statutory authority for the licensing and certification of health care providers and licensed health care practitioners. Therefore, these boards would not be subject to the requirement of 42 U.S.C. §1320a-7e(b)(1) for government agencies to report any final adverse action taken against a health care provider, supplier, or practitioner.

Indeed, health care related words such as "health," "medical," "physician," "nursing," "dental," etc. do not appear in either the Uniform Accountancy Act nor in any of the states' accountancy acts. Boards of accountancy only regulate Certified Public Accountants. One of your communications refers to "the following occupations: accountants;" however, the vast majority of "accountants" are not licensed CPAs and state boards of accountancy generally have no disciplinary authority over unlicensed accountants.

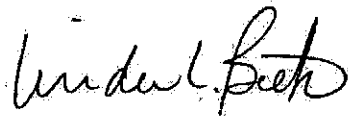
Although there might be coincidental regulation of licensees who are employed as accountants in health care facilities, any wrongdoing charged against a CPA in that context would be within the jurisdiction of one or more other state agencies directly responsible for regulating health care facilities. For example, hospitals, long term care facilities, medical offices, are each directly regulated. Any violation by a licensed CPA pertaining to health care would thus be within the jurisdiction of one or more of those other state agencies. Of course, under the applicable laws, each of those agencies is already obliged to report to you all such actions. Further, state boards

generally do not maintain their disciplinary data on the basis of whether or not the licensee is involved in the health care industry, nor do they license CPAs for that particular activity.

We do note, however, that state boards are working together through NASBA to develop an Accountancy Licensee Database (ALD). Currently about half of all U.S. jurisdictions have agreed to participate in the ALD. Ironically, one impediment to full implementation of the ALD has been various states' concerns and, perhaps, confusion over the confidentiality restrictions other federal laws impose upon the collection and distribution of licensee data. (See, for example, Privacy Act of 1974, 5 U.S.C. §.552a; 42 U.S.C. §.405(c)(2)(C)(i); 42 U.S.C. §.405(c)(2)(C)(viii).) Despite the worthy objectives of Section 1921 of the Social Security Act, there is lingering uncertainty among the states about the degree to which licensing boards can use even four of the nine Social Security Number digits to operate an accurate disciplinary database. The gravity of the problem was even identified as a concern in the 2008 Report of the U.S. Department of the Treasury's Advisory Committee on the Audit Profession. Any new clarity your office could provide on that subject would be likely mutually beneficial.

Finally, according to your website (<http://www.npdb-hipdb.hrsa.gov/servlet/StateBoardsServlet?token=70000>), "[r]eporting under Section 1921 will not require additional resources or work[, and t]hese actions are currently reported to HIPDB and will be placed into NPDB under Section 1921." Since, to the best of our knowledge, state boards of accountancy have never before been required to report disciplinary actions against CPAs to your agency, and since state boards generally do not have a system for doing so, we are confident that you do not intend to implement such a time-consuming and potentially expensive burden at this time. We hope that this information is helpful to you. In the meantime, we would welcome the opportunity to discuss with you ways in which we might be able to make the ALD include all state boards and, perhaps, be able to generate specific data more relevant to your mission.

Very truly yours,



Linda Biek, CPA
Director of Governmental, International
and Professional Relationships

cc: Nicole Olson-Kasin, South Dakota
Jim Abbott, North Dakota
David A. Costello, Pres. & CEO, NASBA



Bureau of Health Professions

Rockville, MD 20857

JUL 23 2010

Linda Biek, CPA
Director of Governmental, International and Professional Relationships
National Association of State Boards of Accountancy
150 Fourth Avenue North
Suite 700
Nashville, TN 37219-2417

Dear Ms. Biek,

This letter is in response to your letter dated May 20, 2010 regarding Healthcare Integrity and Protection Data Bank (HIPDB) reporting requirements for accountants. Your organization, the National Association of State Boards of Accountancy, (NASBA) wrote on behalf of its members, specifically the South Dakota Board of Accountancy.

Your letter makes several statements that we would like to clarify. First, NASBA states that since accountants are not "health care practitioners" as defined in the HIPDB statute and regulations, then accountants are not reportable. The HIPDB collects information about health care practitioners, providers and health care suppliers. For purposes of reporting, the term *health care supplier* is defined in the regulations (45 CFR Part 61) to capture all final adverse actions relating to the delivery of a health care item or service. It includes "any individual or entity ... who furnishes, whether directly or indirectly, or provides access to, health care services, supplies, items, or ancillary services." Further, the HIPDB Guidebook (page C-3) specifically includes accountants within the scope of this definition. The HIPDB Guidebook can be downloaded at www.npdb-hipdb.hrsa.gov

Next, NASBA states that boards of accountancy do not meet the definition of government agency since they have no responsibility for the licensing of health care providers. The HIPDB statute and regulations does provide a list of government agencies that are responsible for the licensing and certification of health care providers, suppliers and practitioners, however that list is not meant to be an exclusive or exhaustive list. State boards of accountancy license and certify accountants, which as previously stated meet the definition of *health care suppliers*. Therefore, State boards of accountancy are required to report to the HIPDB.

NASBA also remarks that any violation by a licensed CPA pertaining to health care would be within jurisdiction of another state agency who is already obligated to report. While this may be true, it is not clear that these other agencies would be making reports on the same types of violations that accountancy boards would. The State is responsible for determining the agency that is responsible for reporting actions that are taken against accountants. Once that determination is made, it is expected that the designated agency will report these actions to the HIPDB accordingly.

Lastly, NASBA states that Section 1921 of the Social Security Act was not meant to expand reporting requirements and that boards of accountancy were never required to

report in the past. The requirement of boards of accountancy to report is not derived from section 1921, but of Section 1128E of the Social Security Act that established the HIPDB. Actions against accountants are not reportable to the National Practitioner Data Bank (NPDB); they are reportable to the HIPDB.

State Boards of Accountancy must make determinations, going forward, as to whether an action taken against the license of an accountant is related to the delivery of a health care service or item. If so, the action must be reported. Retrospectively, these boards must report any previous actions taken against the license of an accountant in which such a determination was made. Please note that as of April 2010, there were approximately 40 reports on accountants contained in the HIPDB.

In order to report, boards must register with the Data Banks. Information on registration can be obtained by visiting our website www.npdb-hipdb.hrsa.gov or by calling our Customer Service Center at 1-800-767-6732.

Thank you for your commitment to patient safety and quality health care. Please let us know if you have any questions or how we may assist you in the future.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia Grubbs".

Cynthia Grubbs, R.N., J.D.
Director
Division of Practitioner Data Banks