

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
FLORIDA BOARD OF ACCOUNTANCY
COMMITTEE ON CONTINUEING PROFESSIONAL EDUCATION
TELEPHONE FONFERENCE CALL
DECEMBER 22, 2015
MINUTES

I. Call to order

The meeting was called to order at 9:04 a.m.

II. Roll Call

The roll was called by Mr. Evans, Management Review Specialist, and reflected the following persons in attendance:

COMMITTEE MEMBERS

Maria E. Caldwell, Chairman
Dr. M.G. Fennema
Gary Laursen
Bill Michaelson
Frank Puissegur

STAFF

Veloria Kelly, Director
Richard Evans
Trencia Jenkins
Barbara Whitney

OTHERS IN ATTENDANCE

Mary Ellen Clark, Senior Assistant Attorney General and Board Counsel
Justin Thames – FICPA
Paul Brown – FICPA
Brenda Hubbard – FICPA
Suzanne Lee – Bureau of Education and Testing (DBPR)

III. Approve minutes from September 17, 2015 meeting

Motion was made by Dr. Fennema, seconded by Mr. Michaelson, to approve the September 17, 2015, minutes. Upon vote, the motion passed unanimously.

IV. Reports

A. Review of Department Approved Sponsors

Motion was made by Mr. Laursen, seconded by Mr. Puissegur, to approve the list of Department Approved Probationary Sponsors. Upon vote, the motion passed unanimously.

B. Review of CPE Audit Report

The CPE Audit Report effective December 22, 2015, was read into the record by Suzanne Lee.

Motion was made by Dr. Fennema, and seconded by Mr. Puissegur, to approve the CPE Audit Report. Upon vote, the motion passed unanimously.

V. Administrative

A. s. 473.312, FS and Chapter 61H1-33 (Informational)

B. Executive Director and/or Licensing Supervisor Remarks

C. Adjourn

The meeting was adjourned at 9:24 a.m.

A handwritten signature in black ink that reads "Maria E. Caldwell". The signature is written in a cursive style with a large, looped initial "M".

Maria E. Caldwell, Chair

PASSED	1001
BOARD REVIEW	108
DEFICIENT	16
EXEMPT	11
NO RESPONSE	61

TOTAL 1197 AUDITED - 11 WAIVED = 1186

NOTE: 10% of database was audited; the Total Reviewed figure does NOT include the No Response figure.

Ken Lawson, Secretary

Rick Scott, Governor

MEMORANDUM

TO: Tim Vaccaro, Deputy Secretary - Professions
Patrick J. Cunningham, Deputy General Counsel - Professions

FROM: C. Erica White, Chief Attorney

SUBJECT: Continuing Professional Education – Monitoring System
Board of Accountancy

DATE: April 6, 2015

Question Presented:

Under Section 455.2177(3), Florida Statutes (2014), does the system used to monitor licensee compliance with Continuing Professional Education (CPE) requirements impose an “undue burden” on the Board of Accountancy (Board)?

Background – CPE Monitoring:

Section 455.2177, Florida Statutes (2014), governs monitoring of compliance with Continuing Education (CE) requirements for professions within the Department of Business and Professional Regulation (DBPR). Section 455.2177(1), Florida Statutes (2014), provides as follows:

455.2177 Monitoring of compliance with continuing education requirements.—

- (1) The department *shall* establish a system to monitor licensee compliance with applicable continuing education requirements and to determine each licensee’s continuing education status. As used in this section, the term “monitor” means the act of determining, for each licensee, whether the licensee was in full compliance with applicable continuing education requirements as of the time of the licensee’s license renewal.

Currently, the DBPR has established a 100% monitoring system for all professions that require Board or DBPR approval of CE courses and providers. The Department requires CE providers to electronically submit course approval for each licensee; accordingly, at the time of license renewal, DBPR’s database system automatically recognizes which licensees have or have not met CE requirements. Further, licensees who fail to meet their CE requirements are prevented from renewing their license.

Background – Undue Burden Standard:

In its original form, Section 455.2177(4), Florida Statutes (1999), provided that the DBPR *shall* establish a system to monitor compliance with CE requirements. The language was as follows:

455.2177 Monitoring of compliance with continuing education requirements.—

- (4) The department *shall* waive the continuing education monitoring requirements of this section for any profession that demonstrates to the department that it has a program in place which measures compliance with continuing education requirements through statistical sampling techniques or other methods and can indicate that at least 95 percent of its licensees are in compliance.

Further, as used in this section, the term "monitor" meant the act of determining, for each licensee, whether the licensee was in full compliance with applicable CE requirements as of the time of the licensee's license renewal.

In 2004, Section 455.2177(4), Florida Statutes, was substantially changed to add language which gave DBPR the discretion to waive the CE monitoring requirements for any profession which demonstrates that the monitoring system places an undue burden on the profession. The specific language of Section 455.2177(3), Florida Statutes (2004), was as follows:

455.2177 Monitoring of compliance with continuing education requirements.—

- (3) “The department *may* waive the continuing education monitoring requirements of this section for any profession that demonstrates to the department that the monitoring system places an undue burden on the profession. The department *shall* waive the continuing education monitoring requirements of this section for any profession that has a program in place which measures compliance with continuing education requirements through statistical sampling techniques or other methods and can indicate that at least 95 percent of its licensees are in compliance.”

It is also important to note that the staff analysis for SB 2026, which contained the above-referenced amendment language in 2004, stated that “[t]he bill [did] not establish standards by which to measure whether the monitoring system places an undue burden on the profession.” Section 455.2177(3), Florida Statutes, has remained unchanged since the 2004 Session, and the current version contained within the 2014 Statutes, is the same language as referenced above.

Board of Accountancy – CPE Monitoring

DBPR is currently using a random audit system to monitor licensee’s compliance with Certified Public Accounting (CPA) CPE requirements because DBPR’s CE monitoring system is not compatible with the Board of Accountancy’s system. Currently, the Board accepts CE

Tim Vaccaro, Deputy Secretary - Professions
Patrick J. Cunningham, Deputy General Counsel - Professions
Memorandum – April 6, 2015
Page 3

course data from non-DBPR approved CE providers; accordingly, since there is no electronic system in place to accept CE course data used by the Board, DBPR is unable to track course approval data for each licensee during the two (2) year CPE reporting period. Therefore, since DBPR cannot track course approval data, the only action which may be taken to monitor CPE compliance pursuant to Section 455.2177(1), Florida Statutes (2014), is to conduct a random CPE Audit after the licensure renewal period has concluded.

Section 455.2177(3), Florida Statutes (2014), does allow DBPR to waive the CE monitoring requirements as specified in 455.2177(1), Florida Statutes (2014), if the monitoring system places an undue burden on the profession. As referenced above, due to the unique situation regarding the use of non-DBPR approved CE providers as demonstrated by the Board, DBPR cannot “monitor” all licensee CPE compliance during the renewal period. Accordingly, the CE monitoring requirement *may* be waived by DBPR for the Board pursuant to Section 455.2177(3), Florida Statutes (2014), because the monitoring requirement could be considered as an “undue burden”.

Although the most recent CPA CPE Audit Report currently lists a 90.61% license compliance rate with the CPE requirements based on a random audit, this percentage does not violate the current statute, Section 455.2177(3), Florida Statutes (2014). The reasoning behind this is because the statute provides DBPR *shall* only waive the CE monitoring requirements for a profession which has at least 95% of its licensees in CPE compliance. In this instance, the Board is operating under the waiver of the CE monitoring requirement based on the undue burden standard and not the percentage of licensee compliance standard.

CEW/rdv