

IDAHO BOARD OF ACCOUNTANCY
Division of Occupational and Professional Licenses
P.O. Box 83720
Boise, ID 83720-0063

Board Meeting Minutes of 2/24/2022

BOARD MEMBERS PRESENT: James Bell – Chair
Cynthia Harmon
Larry Hunter
Kevin Oakey
Toni Hackwith
Michael Armstrong
Jason Peery

DIVISION STAFF: Anne Lawler, Bureau Chief
Kent Absec, Licensing Program Manager
Nicholas Krema, General Counsel
Andrea Rosholt, Legal Counsel
Cesley Metcalfe, Board Support Supervisor
Christian Runnalls, Board Support Specialist
Candace Villarreal, Licensing Specialist

OTHERS PRESENT: Misty Lawrence, Division of Financial Management

The meeting was called to order at 1:02 PM MST by James Bell.

APPROVAL OF MINUTES

Mr. Peery made a motion to approve the minutes of 1/26/2022 as amended. It was seconded by Mr. Armstrong. Motion carried.

ZERO-BASED REGULATION

Mr. Absec stated that the purpose of the rules review is to reduce barriers to practice and eliminate redundancy in response to the Governor's Executive Order 2020-01, Zero-Based Regulation. Division staff presented a draft of recommendations based on collaboration with the Board's legal counsel. Unless otherwise stated, the Board approved the recommendations presented for the following rules:

Rule 018 – Compliance with These Rules:

Mr. Absec recommended removing this rule as redundant. He stated that licensees should be aware that they are required to follow the rules of the Board. Mr. Hunter stated that the rule is not redundant. Mr. Absec and Ms. Lawler clarified that this subject is covered in Idaho Code 54-227(3)(b) but that the statute appears to only address out of state practitioners. No changes were made to the rule.

Rule 019 – Computation of Time:

Mr. Absec suggested deleting this rule as duplicative of the Administrative Procedures Act. This type of rule was asked to be removed in Red Tape Reduction Act.

Rule 020 – Good Moral Character:

Mr. Absec suggested deleting this rule. Mr. Krema stated that Idaho Code § 67-9411 prohibits denial of licensure by the use of vague terms such as good moral character. The statute also established a standard for all licensing boards when considering an applicant with a criminal background. Mr. Peery stated that not all people who fail to meet the definition of good moral character have a criminal background. Mr. Krema stated that Idaho Codes §§ 67-9411 and 54-219 grant the Board all the authority needed to discipline or deny licensure. Several Board members suggested referencing the relevant statutes, rather than deleting the rule. Mr. Absec stated that Division staff will look at the possibility of revising the rule as suggested and how to communicate rule changes to interested parties.

Rule 021 – Notification of change of Address, Felony Charges, or Actions Taken:

Mr. Absec suggested deleting this rule as duplicative of Idaho Code § 54-211.

Rule 300 – Applicability of Rules:

Mr. Absec suggested deleting Rules 300.01 through 300.04 and 300.06 through 300.07 as duplicative of the AICPA Code of Conduct, with which licensees are required to comply. Rule 300.05 was retained due to a recurring issue in Idaho of non-licensees working for a firm in a manner that violates the Board's rules.

Rule 301 – Commissions and Contingent Fees:

Mr. Absec stated this rule is also in the AICPA Code of Conduct but it is written with a lower standard than what is currently in the Board's rule. No changes were made to the rule.

Rule 302 – Confidential Client Information:

Mr. Absec stated this rule is also in the AICPA Code of Conduct but it is written with a lower standard than what is currently in the Board's rule. No changes were made to the rule.

303 – Records:

Mr. Absec stated this rule is also in the AICPA Code of Conduct but is written with a lower standard than what is currently in the Board's rule. No changes were made to the rule.

305 – Response to the Board:

Mr. Absec suggested changing the title to Communication and deleting subsection 02 as redundant. The Board is granted the authority to request complaint responses by Rule 301.

300.07 – Investigative Committee/ 408 – CPE Committees/ 511 – Peer Review Committee:

Mr. Absec suggested deleting these rules because committee meetings violate the Open Meeting Law unless properly noticed. He stated that members of the Investigative Committee could be utilized as pro-reviewers to work with Division investigators for discipline recommendations. Board members voiced concern over: cost increases from using staff instead of volunteers for investigations; not using industry professionals for investigations; and questioned how a committee can violate the Open Meeting Law when they are made up of ex-Board members. Mr. Absec stated that there should not be an increased cost to the Board due to the structure of the Division budget and reminded the Board that industry professionals would be used as pro-reviewers on investigative cases. Ms. Lawler and Mr. Krema provided information from the Attorney General's Office stating that committees are subject to the Open Meeting Law. Mr. Hunter stated that he doesn't believe the Continuing Professional Education Committee should be eliminated if it can still function by adhering to the Open Meeting Law. These rules will be discussed at a future meeting.

DISCIPLINE

Mr. Hunter made a motion to end the probation in case number 2019-06 based on compliance with requirements. The vote was Mr. Bell, aye; Ms. Harmon, aye; Mr. Hunter, aye; Mr. Oakey, aye; Ms. Hackwith, aye; Mr. Armstrong aye; and Mr. Peery, aye. Motion carried.

ADJOURNMENT

Mr. Bell adjourned the meeting at 3:11 PM MST.

Jim Bell, Chair