

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY  
1526 K Street, Suite 410, Lincoln, NE

Minutes  
**November 12, 2021**

**Draft Minutes. Minutes are not approved until the next Board meeting on January 14, 2022.**

**Friday, November 12, 2021**

**1. General**

- A. Call to Order and Roll Call.** The Nebraska Board of Public Accountancy (Board) was called to order at 8:30 a.m. on Friday, November 12, 2021 with Chair Marcy Luth presiding. The roll was called with the following members present: Marcy Luth, Melissa Ruff, Christi Olsen, Tom Purcell, Glen Waltemath, Ken Brauer, Jeff Kanger and Mark Manning. Also, present were Executive Director Dan Sweetwood and staff members Heather Myers and Kristen VanWinkle. The meeting was held at the Board Office, 1526 K Street, in the Lancaster Hearing Room, Lincoln, Nebraska. Chair Luth noted the location of the notebook containing the Public Open Meeting Act, and asked if anyone present needed an agenda or had any questions regarding the law. Joni Sundquist, Nebraska Society of CPAs President, Kelly Ebert, Nebraska Society of CPAs Vice President, Robert Gritmit, retired Board Attorney, Pat Gritmit, Tom Obrist, former Board member, Jim Titus, Board Attorney, Paul Gardner, Attorney, Stinson, LLP, Robert Richardson, Jr. were also present.
- B. Approval of Meeting Agenda for November 12, 2021.** Moved by Kanger, seconded by Waltemath, to approve the agenda for the November 12, 2021 meeting. On a roll call vote, Members Luth, Ruff, Olsen, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Motion #1 carried.
- C. Approval of Minutes from September 10, 2021.** Moved by Ruff, seconded by Kanger, to approve the September 10, 2021 Board minutes. On a roll call vote, Members Luth, Ruff, Olsen, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Motion #2 carried.

**2. Public Comment Period (15-minute period)**

**Joni Sundquist, President of Nebraska Society of CPAs** – Ms. Sundquist updated the Board on the Fall Conference and Annual Meeting, along with who was elected to serve on the Society Board of Directors. Next year's Fall Conference and Annual meeting will be in-person on October 27-28. The Annual State Senators' Reception & Dinner will be January 4, 2022 at the Cornhusker Marriott. The CPA Firm Ownership bill has been provided to Sen. Stinner's office, who has agreed to introduce and carry the bill. On October 27, she, ED Sweetwood, Walt Radcliffe and Jon Wilbeck from the Nebraska Board of Engineers and Architects met with Sen. McCollister to discuss LB263. The discussions were positive and it is anticipated Senator McCollister will share concerns to the Banking, Commerce and Insurance Committee. Sen. McCollister was also the sponsor of an interim study resolution, LR191, to explore the effect of universal licensing on groups that have traditionally faced barriers to occupational licensing; the hearing on LR191 was held Oct. 29 by the Nebraska Legislature's Government, Military, and Veterans Affairs Committee. Sen. McCollister presented in his opening statement his intent to offer an amendment to LB263 to exclude the CPA profession and others from the original bill filed last year by Senator Briesse. While this is positive news, the Society will continue to monitor this bill as it is anticipated to move

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through the Legislature in 2022. She commented on the presentation by Blueprint Nebraska at the Fall CPE Conference. The Blueprint Nebraska plan does presently include the taxation of accounting services, which the Society opposes; however, the plan has yet to become a legislative proposal. The Society will also be keeping an eye on this proposal. She and Society leadership attended the virtual AICPA Council Meetings held with the Nebraska congressional delegation on October 25. Member Purcell brought up the idea of issuing awards for the highest scores on the CPA Exam. Staff will track for 2021 and work with Society on awards. ED Sweetwood addressed the pipeline issue and the growing concerns. NASBA raised the question if it was time for State Boards to get more involved with promoting the profession.

**9:30 a.m. Agenda item 5A Public Hearing for Granting of Certificate for Robert Richardson, Jr.** – Chair Marcy Luth opened the hearing at 9:30 a.m. Robert Richardson, Jr. was present and represented by counsel, attorney Paul Gardner. Board Attorney Jim Titus represented the Board. The Board recessed from 9:40 a.m. to 9:52 a.m. to review the evidence submitted. The evidence was accepted into the record. The hearing concluded at 10:22 a.m.

**Closed Session**

**Closed Session.** Moved by Ruff, seconded by Waltemath, that the Board go into closed session at 10:24 a.m., on Friday, November 12, 2021, for the purpose of discussing 13 enforcement cases, the Richardson hearing, and to protect the public interest and/or prevention of needless injury to individuals. On a roll call vote, Members Luth, Ruff, Olsen, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Motion #3 carried.

Prior to going into closed session, Chair Luth restated the limitation of the closed session, which was to discuss 13 enforcement cases and the Richardson hearing and read the following statement:

*“The Board may go into closed session for the purpose of discussion (no action) on matters involving litigation, personnel, disciplinary matters/enforcement, or matters regarding which the subject matter is otherwise protected under statutory law.*

*The Board may go into closed session on its own motion; however, it must approve a motion to go into closed session and another one to return to open session. The time in which the Board goes into and comes out of closed session is to be noted in the minutes, and the motion must be passed by a majority vote. The motion to go into closed session must contain the subject matter and reason requiring the closed session.*

*Prior to closed session, the Board Chair will restate the limitation of the subject matter that may be discussed in closed session and such restatement shall be noted in the minutes. No action items will be voted upon in closed session.”*

**Return to Open Session.** Moved by Ruff, seconded by Brauer, that the Board return to open

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session at 11:04 a.m., on Friday, November 12, 2021. On a roll call vote, Members Luth, Ruff, Olsen, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Motion #4 carried.

**5. Report of Enforcement of Professional Conduct Committee**

**A. Discussion to Grant Certificate to Robert Richardson, Jr.** Following the hearing for Robert Richardson, Jr., discussion regarding the Board's use of Title 288, Chapter 6.002.04 (Use of Information) in this case occurred. Moved by Purcell, seconded by Ruff to approve the request for certificate without prejudice for Robert Richardson, Jr. and further stipulate he does not need to request a hearing for a permit to practice, but may be required to have a hearing if other issues arise. On a roll call vote, Members Luth, Ruff, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Member Olsen voted nay. Motion #5 carried.

BEFORE THE STATE BOARD OF  
PUBLIC ACCOUNTANCY OF THE STATE OF NEBRASKA

IN THE MATTER OF:	)	
	)	
STATE OF NEBRASKA, ex. rel., STATE	)	
BOARD OF PUBLIC ACCOUNTANCY	)	
OF THE STATE OF NEBRASKA,	)	ORDER
	)	
Plaintiff,	)	
vs.	)	
	)	
ROBERT L. RICHARDSON, JR.	)	
	)	
Defendant.	)	

This matter came before the Nebraska State Board of Public Accountancy ("Board") upon Defendant Robert L. Richardson, Jr.'s ("Richardson") application for CPA certificate issuance.

1. On May 19, 2017 a Consent Order/Agreement was issued by the Board allowing Richardson to sit for the CPA examination upon his agreement to not request a hearing for the purpose of obtaining a certificate or an active permit to practice public accountancy until he successfully completes all parts of the CPA examination and four years have passed after the date of such order. Richardson also agreed that the Board's Rules and Regulations with respect to Character and fitness Standards (Ch. 6.00.02) would remain applicable to him in all respects and that a certificate or active permit to practice will not be issued by the Board without a hearing and determination by the Board that such Standards have been met.

2. Richardson has demonstrated to the Board's satisfaction that since his felony conviction for forgery in 2005 and release from prison in April 2009 that he has overcome his drug addiction for over 11 years, has not had other contacts with law enforcement other than minor traffic violations and shown sufficient evidence of rehabilitation, as well as candor in his initial application over four years ago and recent application for a crime committed in Iowa.

3. Therefore, Richardson has established that his present character and fitness qualify him to practice public accountancy despite his felony conviction in 2005 involving dishonesty and deceit.

IT IS THEREFORE ORDERED that Richardson be issued a Nebraska CPA certificate, and further does not need to request a hearing for a permit under the 2017 order, but may be required to have a hearing if other issues arise.

Dated this 12th day of November 2021.

STATE OF NEBRASKA, ex. rel., STATE  
BOARD OF PUBLIC ACCOUNTANCY  
OF THE STATE OF NEBRASKA

By:

\_\_\_\_\_  
Marcy Luth, Chair

**B. Open Case/LMCO Update.** Committee Chair Ruff gave the report.

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C. **Ratification of LMCOs, if any** – There were none.

D. **Recommended Cases to Close** –

**#20-07** - *The out of state CPA provided information on a pending civil matter on his license application.*

The Board discussed case #20-07. The CPA provided a copy of the Order dismissing the matter. Therefore, it was determined no further action was necessary and the matter should be closed. Motion out of committee to close case #20-07. On a roll call vote, Members Luth, Ruff, Olsen, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Motion #6 carried.

**#20-08** - *Civil Matter filed against CPA regarding dispute with former wealth management company aligned with the CPA firm.*

The Board discussed case #20-08. Per staff search of Justice, it was discovered that the matter was dismissed in October 2021 and the Order was shared with the Enforcement Committee. Therefore, it was determined that no further action was necessary and the matter should be closed. Motion out of committee to close case #20-08. On a roll call vote, Members Luth, Ruff, Olsen, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Motion #7 carried.

**#21-06** - *The Board office received notice the CPA was disciplined by their Board recently for poor work. His license was revoked and placed on probation.*

The Board discussed case #21-06. The NE CPA informed the Board office that he is not the CPA reference in the other state's disciplinary order. After additional research, it was confirmed the NE CPA is not the CPA in the order. Due to the misinformation, it was determined the matter should be closed. Motion out of committee to close case #21-06. On a roll call vote, Members Luth, Ruff, Olsen, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Motion #8 carried.

**#21-07** - *The firm properly reported a civil matter on their 2021 firm renewal application.*

The Board discussed case #21-07. After review, it was determined the case involved a third party and their alleged poor work and not the CPA firm's work. Therefore, it was determined that no further action was necessary and the matter should be closed. Motion out of committee to close case #21-07. On a roll call vote, Members Luth, Ruff, Olsen, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Motion #9 carried.

### 3. Consent Agenda

A. **Published Notice of Meeting.** Moved by Ruff, seconded by Kanger, to approve the consent agenda. On a roll call vote, Members Luth, Ruff, Olsen, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Motion #10 carried.

B. **Approval of Disbursements for September and October 2021.** Secretary Olsen overviewed the disbursements for the Board.

C. **Review of Board Budget Status Report.** It was noted that Employee Bonuses were issued. Postage is up slightly in the current year due to more certified letters sent for stipulation and consent orders. Rent has decreased for the 2021-2022 fiscal year. Merchant Fees are higher in the current year due to timing of payments. Income in the

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current year is up due to more late active renewals in July. Education Services is up due to Staff VanWinkle enrolling in the program for the Nebraska State Government Leadership Certificate. Staff VanWinkle expressed her appreciation for approving her attendance of this course. ED Sweetwood reminded everyone that Board Attorney Titus is being utilized on several projects whereas legal fees could increase through this fiscal year.

**4. Report of the Chair**

- A. Recognition of Board Attorney Robert Gruit.** Board Attorney Gruit was recognized for his service of 28 years to the Board. Chair Luth presented him with a plaque and the below Resolution was presented to him and read into the record. Moved by Purcell, seconded by Kanger, to adopt the resolution. On a roll call vote, Members Luth, Ruff, Olsen, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Motion #11 carried.

*WHEREAS, Robert T. Gruit, Esq., served as Special Assistant Attorney General for the Nebraska State Board of Public Accountancy from 1993 to 2021, also while practicing as an attorney in the law firm of Baylor, Evnen, Curtiss, Gruit & Witt, LLP; and*

*WHEREAS, Robert T. Gruit, during his service to the Board as Board Attorney, joined during a time of unease and was a steadying force in bringing forth a stronger and more unified Board. He brought a common sense mentality to his legal analysis of Board enforcement cases. His ability to overview a case and come up with a solution to address the best way to move forward legally was outstanding. He always treated the individuals under complaint with dignity and respect with special emphasis on exercising their due process rights. He provided excellent counsel to the Board, the Executive Director, and staff along with some good humor. His impact and influence on protecting the public as Board Attorney will resonate for many years to come.*

*THEREFORE, THE MEMBERS OF THE NEBRASKA STATE BOARD OF PUBLIC ACCOUNTANCY gratefully record their recognition of service for Robert T. Gruit by adopting the following Resolution:*

*BE IT RESOLVED, that the Members of the Nebraska State Board of Public Accountancy extend their sincere appreciation to Robert T. Gruit for his service as Board Attorney for the Nebraska State Board of Public Accountancy.*

*BE IT FURTHER RESOLVED, that a copy of this Resolution be incorporated into the minutes of the Board, and further that a copy of this Resolution be presented to him.*

Adopted this 12<sup>th</sup> day of November 2021  
by the Nebraska State Board of Public Accountancy

Marcy Luth, Chair  
Nebraska State Board of Public Accountancy

- B. Report of the Chair.** Chair Luth gave the report.
- C. Discussion on Future Strategic Learning for Board Members.** Chair Luth asked for feedback regarding participating in a strategic learning session once the two new members were appointed. It is anticipated the session will be presented by Jeremy Wortman. The Board members seemed interested and possible dates to hold the meeting will be explored. ED Sweetwood will follow up with the AGO's office regarding the Open Meetings Act and this session. Member Purcell suggested a collaborative session between the State Board and Society Board to discuss shared issues such as the pipeline.

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- D. Small Firm Ownership Task Force Update/ Nebraska Society of CPAs** – See agenda item #2 – Public Comment Period for the update.
- E. Rules of Professional Conduct Task Force Update** – Task Force Chair Purcell commented on the planning session with staff being held on November 19<sup>th</sup>.
- F. Updates from NASBA Annual Meeting November 2-3, 2021** – ED Sweetwood provided a report to the Board with updates from the Annual Meeting. Items of discussion were: NASBA meetings will be in person next year. NASBA is concerned about losing the sense of “family” at their events. Many exam updates, including remote testing, long COVID, and uniformity with the 18-month window. Concerns about the pipeline. Digital Licensing.
- G. Review Board Calendar.** Chair Luth announced that the January 2022 meeting will be a virtual meeting under new LB 83 provisions due to weather related concerns in January.

*\*\*Member Olsen left at 12:15 p.m.*

**6. Report of Continuing Professional Education (CPE) Committee**

- A. Report of the Committee.** Committee Member Purcell gave the report in Committee Chair Olsen’s absence. The committee reviewed one reinstatement and determined it be forwarded to the Licensing Committee. The committee discussed the CPE changes Kentucky made to their regulations, as well as changes that could be made to Nebraska’s CPE Guidelines. Staff will work on a draft of additions for the next meeting. The committee reviewed one CPE waiver request for 2 hours. Motion out of committee to waive 2 hours of CPE for #W0001 per Title 288/Chapter 8.009.04. On a roll call vote, Members Luth, Ruff, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Member Olsen was absent. Motion #14 carried.
- B. Ratification of Staff Program Qualification Evaluations.** The committee reviewed 99 courses from September 1 – November 1, 2021 with 99 courses recommended for Board approval and none denied. Motion out of committee to ratify Board approval of 99 courses. On a roll call vote, Members Luth, Ruff, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Member Olsen was absent. Motion #12 carried.
- C. Ratification of CPE Sponsor.** The committee reviewed an additional course list from Lutz & Company, PC. Motion out of committee to approve the additional course list from Lutz & Company, PC. On a roll call vote, Members Luth, Ruff, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Member Olsen was absent. Motion #13 carried.

**7. Report of Education & Exam (E&E) Committee**

- A. Report of the Committee.** Committee Chair Luth gave the report. The committee discussed one candidate impacted by an exam scoring issue. The candidate was originally notified of a failing score, but after the issue was identified and corrected the candidate actually received a passing score. One year has passed since the original notification of the failing score and the rescore, so the candidate is

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requesting an exam credit extension. Motion out of committee to grant the credit extension for a 12-month exam credit extension based on the date he was notified of the error. On a roll call vote, Members Luth, Ruff, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Member Olsen was absent. Motion #16 carried. The committee discussed schools cross-listings non-Accounting courses as Accounting courses to satisfy the upper-level accounting requirement and ease resources. Through discussion of the Education Guidelines and historical decisions by the committee, it seemed reasonable that if an institution designates a course as an upper-level accounting course that the committee wouldn't intervene unless it's obvious the course doesn't cover accounting related topics.

- B. Approval of Exam Scores from July 1 – September 30, 2021, if available** – Chair Luth noted the number of candidates sitting for FAR and REG are very comparable to last year's numbers. However, the number of candidates sitting for AUD and BEC has decreased. The committee was also provided statistics on the number of candidates sitting at each Prometric location in Nebraska. There is some concern about the low number of candidates sitting at the Omaha location. Staff will follow up on this. Motion out of committee to approve the exam scores from July 1 – September 30, 2021. On a roll call vote, Members Luth, Ruff, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Member Olsen was absent. Motion #15 carried.

**8. Report of the Legislative Committee**

- A. Report on Proposed Legislation:** ED Sweetwood gave the report. See agenda item #2 – Public Comment Period for additional updates.
- B. LR116 – Legislative Committee Review of Public Accountancy Act.** No update at this time as ED Sweetwood continues to draft documents and work with Committee Counsel Bill Marienau.
- C. Compliance with LB867 (Index Updates/Policy Changes).** No updates at this time.

**9. Report of the Peer Review Committee**

- A. Update from Staff** – Discussion continues on how best to implement a Peer Review Oversight Committee (PROC) if needed. The new committee will meet in December to begin a discussion on how best to implement a PROC if one is created.

**10. Report of the Licensing Committee**

- A. Report of the Committee.** Committee Chair Brauer gave the report. The committee discussed three Business, Governmental & Academia (BGA) experience application. Motion out of committee to recommend approval of Julie Kincaid's application. On a roll call vote, Members Luth, Ruff, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Member Olsen was absent. Motion #17 carried. Motion out of committee to recommend approval of Jake Siadek's application. On a roll call vote, Members Luth, Ruff, Purcell, Waltemath, Brauer, Kanger, and

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Manning voted aye. Member Olsen was absent. Motion #18 carried. Motion out of committee to recommend approval of Shamree Baller's application. On a roll call vote, Members Luth, Ruff, Purcell, Waltemath, Brauer, Kanger, and Manning voted aye. Member Olsen was absent. Motion #19 carried.

Staff updated the committee regarding the administrative fee for late permit renewals for Sole Proprietors (SP). It was discussed if the fee should be more proportional to the licensing fee. ED Sweetwood commented on the purpose of administrative fees to recoup staff cost of bringing individuals/firms back to good standing. Member Purcell questioned if the renewal processes for individuals and SPs could be combined to reduce the number of late SP renewals. Staff will review the recommendation. The committee felt it was appropriate to make the administrative fee \$100 for late SP renewals. This will be proposed to the Executive Committee when they discuss the fee structure for 2022.

*\*\*Member Kanger left at 1:05 p.m.*

**B. Ratification of initial permits to practice issued, certificates issued, firm permits.**

Motion out of committee to approve initial permits to practice issued, certificates issued, firm permits issued from September 10 – November 8, 2021. On a roll call vote, Members Luth, Ruff, Purcell, Waltemath, Brauer, and Manning voted aye. Members Olsen and Kanger were absent. Motion #20 carried.

**C. Reinstatements to Active Permit, Inactive Retired Affidavits, Surrendered Certificates.** Motion out of committee to approve the Reinstatements to Active Permit, Inactive Retired Affidavits, and Surrendered Certificates from September 10 – November 8, 2021. On a roll call vote, Members Luth, Ruff, Purcell, Waltemath, Brauer, and Manning voted aye. Members Olsen and Kanger were absent. Motion #21 carried.

Reinstatements:

- Robert Knight III – Hinsdale, IL

Inactive - Retired affidavits:

- Mark Francis – Lincoln, NE
- Michael McClure – Lincoln, NE

Surrendered Certificates:

- Michelle Buckley – Valley City, OH

**11. Report of the Executive Director**

**A. Budget Status** – See above 3 (C)

**B. Staffing & General Office Issues** – ED Sweetwood thanked Chair Luth for representing the Board at the Nebraska Society of CPAs annual meeting, as well as serving on the



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Nebraska Arena Finance Board. He also indicated he was appointed to serve as Chair of the NASBA ALD Task Force.

**12. New Business**

- A. NASBA Items:** None at this time.
- B. Other Miscellaneous Items:** FYI articles

**13. Adjournment**

Moved by Waltemath, seconded by Purcell to adjourn the meeting at 1:26 p.m. on November 12, 2021. On a roll call vote, Members Luth, Ruff, Purcell, Waltemath, Brauer, and Manning voted aye. Members Olsen and Kanger were absent. Motion #22 carried.

Respectfully submitted by,

Board Secretary  
**Christi Olsen**