



National Association of State Boards of Accountancy

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VIA E-mail to Comments@pcaobus.org

Re: PCAOB Rulemaking Docket Matter No. 006
PCAOB Release No. 2003-013, July 28, 2003
(Proposed Rules on Inspections of Registered Public Accounting Firms)

To the PCAOB:

We appreciate the opportunity to offer comment to the Public Company Accounting Oversight Board (the “Board” or the “PCAOB”) on its proposed rules on inspections of registered public accounting firms. The Board is considering the proposed rules for adoption and submission to the Securities and Exchange Commission (the “Commission” or the “SEC”) pursuant to the Sarbanes-Oxley Act of 2002 (the “Act”).

The National Association of State Boards of Accountancy (NASBA) is the national organization of the accountancy regulators of all states and other U.S. jurisdictions (collectively, the “states”). NASBA’s member boards (the “State Boards”) are government agencies composed of both licensees and non-licensure public members. As the only authorities empowered to grant or revoke licenses of certified public accountants (CPAs), the State Boards understand the delicate balance between the need for swift discipline and the necessity of procedural fairness.

NASBA’s ongoing primary focus is upon rules and policies relating to enforcement (including the collection of information that will facilitate enforcement in appropriate cases), with special attention to fostering federal/state cooperation. We believe that close cooperation and a working partnership of the PCAOB and the SEC with NASBA and the State Boards will result in more effective regulatory efforts than otherwise would be achieved. We are pleased that the Commission Order approving PCAOB rules for a registration system encouraged “continued close cooperation” between the PCAOB and state regulatory bodies.

I. General Comments.

In general, NASBA urges that these and other new regulations promote vertical clarity so that State Boards can easily translate PCAOB and SEC case results into swift, equitable and defensible disciplinary actions against licensed audit firms and individual licensees (or unlicensed firms or

accountants for whom a license is required) implicated in violations. In so doing, the PCAOB and the SEC will be able to place greater practical reliance upon an effectively administered State Board licensing and discipline function that puts offending licensees at risk of losing not just their SEC clients but their certificates and their livelihoods as CPAs.

We are pleased with provisions in the proposed rules for cooperation of the PCAOB with the State Boards by providing information from inspections as contemplated by the Act. However, as noted in our specific comments below, we do view with some concern the implications of some provisions that suggest possible PCAOB limitation on the flow of information to State Boards that may be useful for their enforcement activities. We urge, and trust, that the exercise of such limitations by the PCAOB will be restrained and that the PCAOB generally will forward information in a spirit of mutual cooperation between the PCAOB and the State Boards.

II. Comments on Selected Provisions of the Proposed Rules.

Proposed Rule 4004. Procedure Regarding Possible Violations.

Proposed Rule 4004 provides if the PCAOB determines that information obtained during an inspection indicates that the firm, an associated person or any other person may have engaged or be engaged in a violation (as described), the PCAOB shall “if it determines appropriate” report information concerning such possible violation to the Commission and “each state, agency, board, or other authority that has issued a license or certification number to the firm or person . . . authorizing such firm or person to engage in the business of auditing or accounting.” We suggest that the rule also *expressly* refer to the reporting of such information: “, if known by the Board, to each state, agency, board, or other authority from which such a license or certification number is required for the activities of the firm or person even if such license or certification number is not obtained by the firm or person or such number otherwise is not known by the Board.” We believe it appropriate that the PCAOB report information to each applicable licensing authority when the PCAOB becomes aware of activities by an unlicensed firm or person for which license is required by the applicable state (or possibly may be required, if there is doubt).

As noted in prior comment, to strengthen NASBA/State Board coordination with PCAOB/SEC oversight of registered public accounting firms and associated persons, we believe it is very important to recognize the significance of licensing by the State Boards. Firms and individuals engaged in the unlicensed practice of forms of public accountancy for which a license is required by the applicable state (typically including audits and reviews) are in violation of state law. State Boards generally have the statutory authority to initiate civil actions for injunctions as well as criminal prosecutions against such firms and individuals. We believe that oversight by the PCAOB should include vigilance to avoid fostering, even indirectly, condoning or tolerating the unlicensed practice of forms of public accountancy for which license or certification is required by applicable state law for *either firms or* individuals.

Also, we note that under the proposed rule the PCAOB is to report information to the Commission and the licensing authorities “if it determines appropriate.” We believe that in almost every instance such reporting would be appropriate and trust that the PCAOB generally will forward information in a spirit of mutual cooperation between the PCAOB and the State Boards. We would therefore urge that PCAOB reporting to State Boards would be routine “unless it determines such report to be inappropriate.”

Proposed Rule 4008. Transmittal of Final Inspection Report.

Proposed Rule 4008 provides that the PCAOB shall transmit a copy of the final inspection report to the firm, to the Commission, and “in appropriate detail, to each state, agency, board, or other authority that has issued a license or certification number authorizing the firm to engage in the business of auditing or accounting.” It further provides that in the case of reports transmitted to

licensing authorities, the PCAOB “may omit from the report any information the disclosure of which could interfere with any investigation, prosecution, or disciplinary proceeding.”

We believe that in almost every instance reporting to licensing authorities in complete detail and without omission would be appropriate. When the PCAOB has concern about the possible effect of information in an inspection report on an investigation, prosecution, or disciplinary proceeding, the first step – before omitting information from an inspection report – should be discussions between representatives of the PCAOB and the applicable State Boards to explore alternative solutions, with a view to keeping information omissions, if any, at the minimum possible. We note that any limitation on the flow of information to State Boards may impact their enforcement effectiveness and thus their protection of the public interest. Again, we urge, and trust, that the PCAOB generally will forward complete information in a spirit of mutual cooperation between the PCAOB and the State Boards.

Conclusion. NASBA appreciates the opportunity to provide these comments. Should you have questions about our thoughts on the proposed rules or other matters, please contact us. We look forward to ongoing communication and cooperation with the PCAOB and the SEC.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Costello".

David A. Costello, CPA
President & CEO

A handwritten signature in black ink, appearing to read "K. Michael Conaway".

K. Michael Conaway, CPA
Chair, NASBA