



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor

April 3, 2012

To: The Honorable Marcus R. Oshiro, Chair,
The Honorable Marilyn B. Lee, Vice Chair; and
Members of the House Committee on Finance

Date: Tuesday, April 3, 2012
Time: 5:00 p.m.
Place: Conference Room 308, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

**Re: SB2739 SD2HD1 RELATING TO THE SMALL
BUSINESS REGULATORY REVIEW BOARD**

I. OVERVIEW OF PROPOSED LEGISLATION

- ✓ Authorizes the Small Business Regulatory Review Board (SBRRB) to potentially conduct an additional public hearing on a rule change when a rulemaking agency does not make changes requested by public input at a public hearing and the agency's small business statement is inconsistent with its determination or does not address the concern raised at the public hearing.

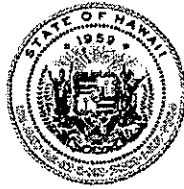
The DLIR opposes SB2739 SD2HD1.

III. COMMENTS ON THE SENATE BILL

Overall, this proposal adds additional costs and responsibilities to the department without providing the commensurate resources to carry out the measure's purpose. The department continues to struggle with meeting its rulemaking responsibilities and the requirement in the measure will exacerbate the situation.

The DLIR believes that the current rulemaking process already provides sufficient review of agency rules with respect to small businesses. Hawaii Revised Statutes, (HRS) Section 91-6 and Section 201M-6 permits an affected party to file a petition to amend or repeal a rule with an agency and requires the agency to respond in 30 days.

The public interest is not served by adding additional responsibilities to the departments without resources and adding more "red tape" to the already lengthy rulemaking process.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Tuesday, April 3, 2012 – Agenda #4
5 p.m.

**TESTIMONY ON SENATE BILL NO. 2739, S.D. 2, H.D. 1 – RELATING TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD.**

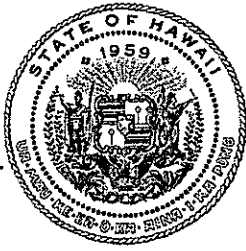
TO THE HONORABLE MARCUS R. OSHIRO, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Keali'i Lopez and I am the Director of the Department of Commerce and Consumer Affairs (DCCA). DCCA appreciates the opportunity to testify in opposition to this bill.

The purpose of this bill is to authorize the Small Business Regulatory Review Board to require an agency to conduct another hearing on a rule change when the rulemaking agency declines to make changes requested at the first hearing and the agency's small business statement, submitted after the hearing, does not address the concern raised at the first hearing. The language of this draft is identical to House Bill No. 2268, H.D. 2 that was held by the Senate Committee on Economic Development and Technology on March 14.

While the Department recognizes the importance of an inclusive and transparent rulemaking process that duly considers comments from all interested parties, there are adequate protections in Haw. Rev. Stat. 91-3(a), 91-6 and 201M-6 to address the concerns a person may have about a proposed rule. In particular, 201M-6 allows an affected party to file a petition to amend or repeal a rule.

Also, requiring a second hearing will unnecessarily lengthen an already lengthy process and further raise the cost of implementing or revising rules.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE
Tuesday, April 3, 2012
5:00 PM
State Capitol, Conference Room 308

In consideration of
SB 2739 SD2 HD1
RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD

Chair Oshiro, Vice Chair Lee, and Members of the House Committee on Finance.

The Department of Business, Economic Development, and Tourism offers comments on SB 2739 SD2 HD1. The bill authorizes the small business regulatory review board to require an agency to conduct another public hearing on a rule change when the rulemaking agency declines to make changes requested at the first hearing and the agency's small business statement, submitted after the hearing, indicates inconsistency with its earlier determination or does not address the public's concerns.

The language in the proposed amendment could reasonably be subject to interpretation and may increase the time that it takes to get a proposed rule or rule change adopted. Currently, the Governor has the authority to require departments to hold additional public hearings on proposed rules and rule amendments prior to adoption of the final rule.

Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

WRITTEN ONLY

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON FINANCE

April 3, 2012 at 5:00 p.m.
Room 308, State Capitol

In consideration of
S.B. 2739, S.D. 2, H.D. 1
RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

S.B. 2739, S.D. 2, H.D. 1 authorizes the Small Business Regulatory Review Board (SBRRB) to supersede an agency's determination on proposed administrative rules. HHFDC, therefore, **opposes** the H.D. 1 and prefers the bill as originally introduced.

The H.D. 1 empowers the SBRRB with the ability to require State agencies to conduct a second public hearing if, in its sole discretion, it finds that the agency did not address public input in the proposed rule. HHFDC is concerned that this is inappropriate, and will add significant costs and delays to the rulemaking process.

The current rulemaking process already requires State agencies to conduct a second public hearing on rules that include substantive amendments following the initial public hearing. And, if an agency's decision is to proceed with the existing rule draft without amendment after taking into account public input at the initial public hearing, a second public hearing is not likely to have any effect other than to waste time and money. We also note that under current law, the public, including owners of small businesses, already have the ability to petition an agency for the adoption, repeal, or amendment of any rule.

Thank you for the opportunity to provide written comments on this bill.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

To: The Honorable Marcus Oshiro, Chair,
and Members of the House Committee on Finance

Date: Tuesday, April 3, 2012
Time: 5:00 P.M.
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 2739 S.D. 2, HD1 Relating to the Small Business Regulatory Review Board

The Department of Taxation (Department) appreciates the intent of SB2739 S.D. 2 H.D.1, but the Department cannot support delegating authority to hold additional public hearings over matters governed by the Department under Title 14 of the Hawaii Revised Statutes to a voluntary Board which is neither administratively attached to the Department, nor has subject matter expertise in taxation.

S.B. 2739 S.D. 2 H.D.1, authorizes the small business regulatory review board to require an agency to conduct another public hearing on a rule change when the rulemaking agency declines to make changes requested at the first hearing and the agency's small business statement, submitted after the hearing, indicates inconsistency with its earlier determination or does not address the public's concerns.

The Department appreciates the need for public hearings when contemplating adoption of new administrative rules. However, we are hesitant in granting a voluntary review Board the authority to intercede in the Department's rule-making process and require an additional public hearing if the Department "...does not address the concerns of public input."

The Department's need for administrative rules usually arises when the Department is attempting to address noncompliance by certain segments of the public. For the most part, this will likely insure that there will be taxpayers opposed to the Department's adoption of administrative rules, regardless of whether the proposed rules are fair and consistent with the statutes. In other words, the Department will likely always have taxpayers who say that we didn't address their concerns.

For this reason, the Department is concerned that the language of subsection (b) in section 2 of the bill, "does not address the concerns of public input" is too broad and subjective a reason for requiring additional public hearings. Moreover, tax-related rules are not easily understood by non-practitioners. We are concerned that these volunteers may be making an assessment regarding whether we addressed the concerns of taxpayers without sufficient understanding of tax policy or practice. As a result, this additional hearing process could become unduly burdensome for the Department.

Thank you for the opportunity to provide comments.

NEIL ABERCROMBIE
GOVERNOR



PATRICIA MCMANAMAN
DIRECTOR

BARBARA A. YAMASHITA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

April 3, 2012

TO: The Honorable Marcus R. Oshiro, Chair
House Committee on Finance

FROM: Patricia McManaman, Director

SUBJECT: **S.B. 2739, S.D. 2, H.D. 1 – RELATING TO SMALL BUSINESS
REGULATORY REVIEW BOARD**

Hearing: Tuesday, April 3, 2012; 5:00 p.m.
Conference Room 308, State Capitol

PURPOSE: The purpose of this bill is to authorize the Small Business Regulatory Review Board to require an agency to conduct another public hearing on a rule change when the rulemaking agency declines to make changes requested at the first hearing and the agency's small business statement, submitted after the hearing, indicates inconsistency with its earlier determination or does not address the public's concerns.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) opposes this bill. This measure to allow the Small Business Regulatory Review Board (SBRRB) to require a second hearing if the SBRRB determines that concerns raised at a public hearing were not adequately addressed is unnecessary. The public interest is not served by adding another layer of "red tape" when government should be seeking to streamline its processes. There are sufficient protections in the existing Chapter 91-3(a), Hawaii Revised Statutes (HRS), to address the concerns of a party who feels that a rule should be adopted, amended or repealed. In addition, HRS Section 91-6 and HRS

Section 201M-6 allow an affected party to file a petition to amend or repeal a rule with an agency that must be responded to in thirty days.

Finally, the Governor already has the authority to require departments to hold additional public hearings on proposed rules or rules changes before the final rules are adopted.

Requiring a second public hearing will impede agencies' ability to implement on a timely basis, Federal and State statutes governing their programs. Delay in implementation could mean loss of Federal dollars to the State for non-compliance. The vague criteria language of this bill would give the SBRRB the authority to indefinitely delay the adoption and implementation of administrative rules.

Additionally, there will be cost implications for agencies if they are required to hold a second hearing.

Thank you for the opportunity to provide testimony on this bill.

NEIL ABERCROMBIE
GOVERNOR



HAKIM OUANSAFI
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
Honolulu, Hawaii 96817

BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

HOUSE COMMITTEE ON FINANCE

April 3, 2012 5:00 P.M.
Room 308, Hawaii State Capitol

In consideration of
Senate Bill 2739, House Draft 1
Relating to the Small Business Regulatory Review Board

Honorable Chair and Members of the House Committee on Finance, thank you for the opportunity to provide you with comments regarding Senate Bill 2739, as amended by House Draft 1, relating to the Small Business Regulatory Review Board.

The Hawaii Public Housing Authority (HPHA) strongly opposes enactment of this measure, which would amend Section 201M-3, Hawaii Revised Statutes (HRS), to allow the Small Business Regulatory Review Board (SBRRB) to require an agency to hold additional public hearings if, in its discretion, the public requests a change to a proposed administrative rule that affects small business and the SBRRB disagrees with the agency's statement of reasons for adopting the proposed rule without the requested change.

Such a statutory amendment would exacerbate the already onerous administrative process involved under Chapter 91 rulemaking. This process adequately provides for public input in all steps of the process of an agency rulemaking action. The public is already open to participate in Board or Commission deliberations on proposed rules and by Executive order, all proposed rulemaking actions go to the SBRRB prior to Governor's approval to go to public hearing. Then, there is a minimum 30-day public review and comment period culminating in public hearing. Finally, most proposed rules would be then brought back to the agency's Board or Commission for final approval, which provides additional opportunity for public input.

The measure as currently drafted is dramatically different from the original Administration draft of the bill. It represents a major expansion of power to the SBRRB that is not necessary to protect the interests of small business, and which could add

Hawaii Public Housing Authority

April 3, 2012

Page 2

additional delays to an already extended period of time. Any concerns with the process of administrative rulemaking should be addressed by examining Chapter 91, not by the expansion of the powers of the SBRRB far beyond that which was originally intended for the Board.

The HPHA appreciates the opportunity to provide the House Committee on Finance with the agency's position regarding S.B. 2739, H.D. 1. We respectfully request the Committee to hold this measure, and we thank you very much for your dedicated support.



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF RUSSELL S. KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE

TUESDAY, APRIL 3, 2012
5:00 P.M.
ROOM 308

SENATE BILL NO. 2739, SD2 HD1
RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD

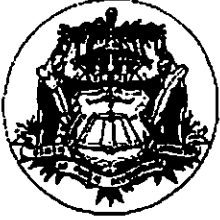
Chairperson Oshiro and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2739, SD 2 HD1. The purpose of this bill is to authorize the small business regulatory review board to require an agency to conduct another public hearing on a rule change when the rulemaking agency declines to make changes requested at the first hearing and the small business statement post public hearing indicates inconsistency with the earlier determination or does not address the public's concerns. The department opposes the bill.

The Department believes that the current rulemaking process provides sufficient review of agency rules with respect to small businesses. This bill would increase the time required for the already lengthy rulemaking process resulting in increased costs and a decrease in efficiency.

Thank you for the opportunity to submit testimony.





HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

Organized August 7, 1943
P.O. BOX 61043
HONOLULU, HAWAII 96839



Before the House Committee on Finance

Tuesday, April 3, 2012 at 5:00 p.m.

Conference Room 308

Re: Support for SB2739, SD2, HD1

Chair Marcus R. Oshiro, Vice Chair Marilyn B. Lee, and Committee Members:

I am the State President of the Hawaii Association of Public Accountants (HAPA). HAPA is a state-wide organization with chapters in all of Hawaii's counties. I am also a licensed CPA and a principal in the firm Niwao & Roberts, Certified Public Accountants, a Professional Corporation, located on Maui.

HAPA strongly supports SB2739, SD2, HD1 because it addresses a long-festering problem in the procedures of how Hawaii's boards develop Hawaii Administrative Rules. In short, SB2739, SD2, HD1 provides an answer to the question, "What can be done to ensure transparency in governmental decision making and to ensure that the voices of concerned citizens are heard when a board inadvertently or intentionally bends procedural rules or worse, goes rogue?"

For many years, HAPA has shared with a number of State Senators and Representatives our frustration with the State Board of Public Accountancy over how that Board develops and implements administrative rules. Over and over, substantive discussions and decision making by the Board appear to have been conducted in executive sessions rather than in public meetings. Moreover, the minutes of the Board's public meetings too often differ substantially from the recollections and contemporaneous notes taken by HAPA representatives present at the public meetings. As a result, HAPA regularly makes audio recordings of the Board's public hearings and meetings to document our concerns.

When members of the public submit written testimony at a public hearing of the Board of Public Accountancy, this written testimony is only available to the public in redacted format through a formal Office of Information Practices (OIP) request. This is not correct. Furthermore, when the public raises objections to or makes recommendations for changes to proposed administrative rules, those objections and recommendations are all too often either ignored until a formal complaint is filed, or glossed over after the Board's hands have been caught in the cookie jar. Time and again, HAPA has been told that its only remedy is to file a lawsuit against the Board.

SB2739, SD2, HD1 provides a common sense solution to this problem outside of expensive litigation by giving the Small Business Regulatory Review Board the power to send proposed rules back for a second public hearing when the Small Business Statement provided to it is inconsistent with any of the agency's determinations under section 201M-2(b) or does not address the concerns of public input.


To demonstrate why SB2739, SD2, HD1 is needed, the following documents are included as part of this testimony to show what recently transpired with the Board of Public Accountancy when it amended HAR 16-71-21(e).

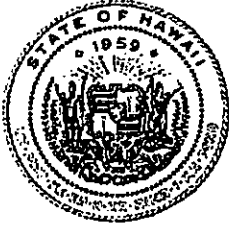
- Letter from the Small Business Regulatory Review Board to Governor Neil Abercrombie, dated December 13, 2011.
- Letter from HAPA to the Small Business Regulatory Review Board, dated December 6, 2011.
- Letter from HAPA to the Small Business Regulatory Review Board, dated October 10, 2011.
- HAPA's written testimony to the Board of Public Accountancy, dated October 5, 2011, concerning the Board's proposed repeal of HAR 16-71-21(e).
- Written transcript of the audio recording of the Board of Public Accountancy's October 7, 2011 public meeting that followed the public hearing held earlier that same day regarding the proposed repeal of HAR 16-71-21(e).
- The Board of Public Accountancy's response to HAPA's formal OIP request for copies of all of the written testimony received for the Board's public hearing on October 7, 2011, including redacted copies of the testimonies received.

Collectively, the above represent one case study in the Board of Public Accountancy's disregard for the spirit and letter of Hawaii's administrative rule making procedures. HAPA can provide other case studies upon request.

In closing, HAPA urges you to support SB2739, SD2, HD1 as a common sense solution to a problem that has gone on far too long. Thank you for this opportunity to testify.

Respectfully submitted,


John W. Roberts, M.B.A., CPA
HAPA State President



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism
No. 1 Capitol District Bldg., 250 South Hotel St., 5th Fl., Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Tel 808 586-2594
Fax 808 586-3388

MEMORANDUM

Neil Abercrombie
Governor

TO: Governor Neil Abercrombie

Richard C. Lim
Director, DBEDT

FROM: Sharon L. Pang, Chairperson
Small Business Regulatory Review Board

Mary Alice Evans
Deputy Director, DBEDT

DATE: December 13, 2011

Members

Sharon L. Pang
Chairperson
Oahu

SUBJECT: Correspondence dated October 10, 2011, from John W. Roberts, M.B.A., CPA, President of Hawaii Association of Public Accountants (HAPA), regarding "Board of Public Accountancy Meeting on October 7, 2011 and the Repeal of HAR 16-71-21(e)

Charles Au
Vice Chairperson
Oahu

Richard Schnitzler
2nd Vice Chairperson
Hawaii

Bruce Bucky
Oahu

Peter Yukimura
Kauai

David S. De Luz, Jr.
Hawaii

Howard West
Oahu

Chu Lan Shubert-Kwock
Oahu

As you are aware, the Small Business Regulatory Review Board (Review Board) provides recommendations to State and County agencies on proposed rules and proposed rule amendments, pursuant to Chapter 201M, HRS, and the Governor's Administrative Directive No. 09-01.

At its December 7, 2011 board meeting, the Review Board members met with Mr. John W. Roberts, State HAPA President regarding the above-captioned correspondence (see attached). Also in attendance were Mr. Nelson Lau, Member of the State's Board of Public Accountancy, and Ms. Laureen Kai, Executive Director for the Board of Public Accountancy at Department of Commerce and Consumer Affairs (DCCA).

To date, despite the public hearing being held on October 7, 2011, in regards to the repeal of HAR Subsection 16-71-21(e), the Review Board has not received a "small business statement after public hearing," pursuant to Chapter 201M-3, HRS. Based on this and other factors discussed in the meeting, please be advised that the Review Board is disappointed in the Board of Accountancy's handling of the overall rule review process. In addition, the Review Board recommends that, going forward, there be more cooperation and collaboration between the Board of Accountancy and the stakeholders.

Enclosure (October 10, 2011 Correspondence)

c: Mr. John W. Roberts, HAPA State President
Keali'i S. Lopez, Director, DCCA
Laureen M. Kai, Executive Officer, DCCA
Nelson Lau, Member, Board of Public Accountancy
Charles Au, Review Board Discussion Leader



HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

Organized August 7, 1943
P.O. BOX 61043
HONOLULU, HAWAII 96839



December 6, 2011

Sharon L. Pang, Chair,
Charles K.H. Au, First Vice Chair,
and Members of the
Small Business Regulatory Review Board
P.O. Box 2359
Honolulu, Hawaii 96804

Re: Board of Public Accountancy Meeting on October 7, 2011
and the Repeal of HAR 16-71-21(e)

Dear Chair Pang, First Vice Chair Au, and Members of the Board:

Further to my letter to you dated October 10, 2011, I am enclosing a transcript of the portion of the public meeting of the Board of Public Accountancy (BOPA) pertaining to HAR 16-71-21(e) held on October 7, 2011. This transcript is based on an audio recording that I made of the entire public meeting as well as the BOPA public hearing held earlier that same day. The Hawaii Association of Public Accountants (HAPA) routinely records BOPA public meetings because minutes in the past were not accurately taken.

I believe that the audio recording corroborates the following points made in my earlier letter to you.

1. The written testimony received regarding the proposed amendment was not read into the record. Furthermore, neither the names of those who submitted written testimony nor the number of testimonies received for and against amending HAR 16-71-21(e) were disclosed. This was not done until the November 2011 BOPA public meeting after the BOPA learned of HAPA's complaint.
2. The objections raised in both written and oral testimony were not addressed. Again, these objections were not disclosed until the November 2011 BOPA public meeting, where some points were made to try to justify the BOPA's decision.

3. Copies of the written testimony received were not made available to the public except through a formal OIP request. HAPA subsequently made a written OIP request and received one set of copies of written testimony redacted for certain information (see attached).

In addition, the audio recording and related transcript also raise the following more disturbing question concerning the BOPA not following OIP rules regarding public meetings.

When and where did the BOPA actually hold substantive public discussions to consider the oral and written testimony received regarding HAR 16-71-21(e), some of which was lengthy and highly-technical?

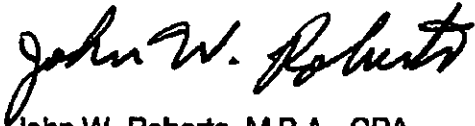
As noted in the transcript, Chairperson Thomas Ueno opened the subject of HAR 16-71-21(e) by providing a long oral summary of ". . . what the Board has been talking uh about on this particular issue. . ." This is interesting because the only BOPA member who actually spoke on HAR 16-71-21(e) after the motion was made and before the vote was Craig K. Hirai, who stated, "Yes, um, I am going to vote no. Um, I believe that licensees should have continuing education, so I am going to vote no."

When asked whether the BOPA was going to explain why it voted for the amendment and address the concerns of those who submitted testimony against it, Chairperson Ueno stated that is what he was attempting to do in his opening remarks before a motion to amend HAR 16-71-21(e) had even been made. Similarly, after the formal vote, Executive Officer Lauren Kai stated, "Uh, also the discussion did center on that the board members felt very strongly that the adverse impact on expected applicants was significant enough that um . . . this rule change was necessary. . . uh, that's all I have." I nor any of my HAPA colleagues who attended the BOPA meetings can recall any substantive Board discussion on the subject.

I will be attending the public meeting of the Small Business Regulatory Review Board on December 7, 2011. At that time, I will be available to answer questions as well as provide a CD containing the audio recordings of the BOPA public hearing and public meeting held on October 7, 2011 on the amendment of HAR 16-71-21(e).

Thank you for your consideration and assistance in this matter.

Very truly yours,

A handwritten signature in black ink that reads "John W. Roberts". The signature is written in a cursive, flowing style.

John W. Roberts, M.B.A., CPA
HAPA State President

Enclosure: HAPA Letter Dated October 10, 2011.
Transcript of portion of BOPA public meeting pertaining to
HAR 16-71-21(e) on October 7, 2011.
Copy of Written Testimonies.

cc: Senator Rosalyn H. Baker
Representative Robert N. Herkes
Representative Isaac W. Choy



HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

Organized August 7, 1943
P.O. BOX 81043
HONOLULU, HAWAII 96839



October 10, 2011

Sharon L. Pang, Chair,
Charles K.H. Au, First Vice Chair,
and Members of the
Small Business Regulatory Review Board
P.O. Box 2359
Honolulu, Hawaii 96804

**Re: Board of Public Accountancy Meeting on October 7, 2011
and the Repeal of HAR 16-71-21(e)**

Dear Chair Pang, First Vice Chair Au, and Members of the Board:

The Hawaii Association of Public Accountants (HAPA) believes that the Hawaii Board of Public Accountancy (BOPA), at its meeting on October 7, 2011, violated Hawaii's Small Business Bill of Rights. HAPA requests that the Small Business Regulatory Review Board review the substance and procedure of BOPA's decision to amend Hawaii Administrative Rule (HAR) Subsection 16-71-21(e) to determine whether the Small Business Bill of Rights was violated and to take appropriate action.

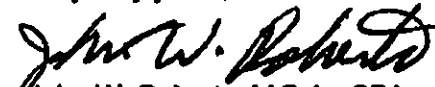
HAPA believes that the Small Business Bill of Rights was violated for the following reasons:

1. The repeal of HAR Subsection 16-71-21(e) in itself violates sections II and IV of the Bill of Rights. See HAPA's attached written testimony.
2. The violation of important procedures at the BOPA hearing also violated the Bill of Rights, including:
 - a. Failure to read into the record or even acknowledge any of the written testimony received at the hearing.
 - b. Failure to address the objections raised in both written and oral testimony.
 - c. Failure to make available written copies of the testimony received except through a formal Office of Information Practices request.

Should you have questions or require additional information, you may telephone me at (808) 242-4600 ext. 223., e-mail me at hapapresident@aol.com, or write me care of 2145 Wells Street, Suite 402, Wailuku, HI 96793.

Thank you for your consideration and assistance in this matter.

Very truly yours,


John W. Roberts, M.B.A., CPA
HAPA State President

Enclosure: HAPA Written Testimony on the Proposed Repeal of HAR Subsection
16-71-21(e)

cc: The Honorable Isaac W. Choy,
State Representative, District 24



HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

Organized August 7, 1943
P.O. BOX 61043
HONOLULU, HAWAII 96839



October 5, 2011

Thomas T. Ueno, CPA, Chairperson, Kent K. Tsukamoto, CPA, Vice Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

**Re: Testimony in opposition of proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a
permit to practice during the period of supervision of a new CPA
candidate.**

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the Board:

The board of directors of the Hawaii Association of Public Accountants (HAPA) opposes the proposed amendment to repeal HAR Subsection 16-71-21(e) because the repeal would result in CPA license-only holders violating:

1. HRS §466-10 Prohibited Acts.
2. The ethical standards promulgated by the American Institute of Certified Public Accountants (AICPA), an integral part of the regulatory framework for CPAs in Hawaii under HRS §436B-10, including:
 - a. ET Section 53 - Article II The Public Interest; and
 - b. ET Section 56 - Article V - Due Care.
3. Common sense.

Furthermore, the repeal of HAR Subsection 16-71-21(e) would in itself violate sections II and IV of the Hawaii Small Business Bill of Rights.

Based on these resulting violations of Hawaii Revised Statutes, AICPA Ethical Standards, and Hawaii's Small Business Bill of Rights, HAPA urges the Board of Public Accountancy to reconsider its position and withdraw its proposed amendment to repeal HAR Subsection 16-71-21(e). The following presents HAPA's concerns in more detail.

HRS §486-10 Prohibited Acts:

HRS §486-10 defines the legal use of the titles "certified public accountant" and "CPA." As shown below, HRS §486-10 (1) clearly states that a person must hold both a current license and a current permit to practice in order to legally use the title or designation "certified public accountant" or "CPA."

"Except as otherwise provided in subsection (d) of this section, no person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, sign, card, or device likely to be confused with "certified public accountant" or "CPA" or tending to indicate that the person is a certified public accountant, unless the person holds a current license of certified public accountant issued under this chapter and a current permit to practice issued under this chapter (emphasis added);"

One of the core issues related to the use of professional titles or designations "certified public accountant" and "CPA" is the representation of special knowledge. This issue is specifically and clearly addressed in detail in HRS §486-10 (c) (1) below.

"No person shall sign or affix the person's name or any trade or assumed name used by the person in the person's profession or business with any wording indicating, suggesting, or implying that the person is an accountant or auditor, or with any wording indicating, suggesting, or implying that the person has special knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:

(A) Financial information, or

(B) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations, unless the person holds a current license and a current permit to practice issued under this chapter (emphasis added)."

In light of the above, HAPA believes that repealing HAR Subsection 16-71-21(e) and allowing a person without a current license and a current permit to practice to attest to the experience requirement of a new CPA candidate is a prohibited act that violates HRS §486-10 (c).

HRS §436B-19 and CPA Ethical Standards:

HRS §436B-19 (9) specifies the grounds for revocation, suspension, renewal, restoration, denial, or condition of licenses. It says:

“. . . In addition to any other acts or conditions provided by law, the licensing authority may refuse to renew, reinstate or restore or may deny, revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

(9) Conduct or practice contrary to recognized standards of ethics for the licensed profession or vocation (emphasis added);

Given that the AICPA Principles of the Code of Professional Conduct for CPAs, also known as the Code of Ethical (ET) Standards, are universally recognized as the standards of ethics for CPAs in Hawaii regardless of whether a Hawaii CPA license or permit holder is a member of the AICPA, any changes to the Hawaii Administrative Rules must not contradict or place a CPA license or permit holder in a position where he or she would violate any of the AICPA ET Standards. The repeal of HAR Subsection 16-71-21(e), however, would create precisely this contradiction/violation.

ET Section 53 Article II – The Public Interest:

ET §53.01 states:

“A distinguishing mark of a profession is acceptance of its responsibility to the public. The accounting profession’s public consists of clients, credit grantors, governments, employers, investors, the business and financial community, and others who rely on the objectivity and integrity of certified public accountants to maintain the orderly functioning of commerce. This reliance imposes a public interest responsibility on certified public accountants. The public interest is defined as the collective well-being of the community of people and institutions the profession serves (emphasis added).”

ET §53.04 further states:

“All who accept membership in the American Institute of Certified Public Accountants commit themselves to honor the public trust. In return for the faith that the public reposes in them, members should seek continually to demonstrate their dedication to professional excellence.”

With respect to the certification of work experience of CPA candidates, ET §53 obligates supervisors of CPA candidates to accept their responsibility to the public and seek continually to demonstrate their dedication to professional excellence. In other words, supervisors certifying the experience of CPA candidates have an obligation to the public to remain technically current themselves through continuing professional education. CPA permit holders meet this standard; CPA license holders do not.

ET Section 66 Article V -- Due Care:

ET §56.02 states:

"Competence is derived from a synthesis of education and experience. It begins with a mastery of the common body of knowledge required for designation as certified public accountant. The maintenance of competence requires a commitment to learning and professional improvement that must continue throughout a member's professional life. It is a member's individual responsibility. In all engagements and in all responsibilities, each member should undertake to achieve a level of competence that will assure that the quality of the member's services meets the high level of professional required by these Principles (emphasis added)."

A CPA licensee who fails to obtain continuing professional education (CPE) is not likely to be competent. Furthermore, that CPA licensee without CPE does not serve the public trust by attesting to the experience requirement of a CPA candidate under his or her supervision if the HRS requires "two years of professional experience in public accountancy practice or its equivalent in private industry and government (emphasis added)." The very nature of public accountancy practice demands that CPAs in public accountancy practice be current with continuing professional education by requiring CPAs in public practice to obtain a permit to practice. The permit to practice imposes on a CPA licensee the obligation to obtain 80 hours of professional continuing education every two years.

ET §56.05 states:

"Due care requires a member to plan and supervise adequately any professional activity for which he or she is responsible (emphasis added)."

On-the-job training and supervision of CPA candidates is a professional activity that demands the supervisor maintain current technical and other professional knowledge, which is normally obtained by continuing professional education currently not required of CPA licensees. In a profession where on-the-job training is critical, it is just that simple.

Hawaii Small Business Bill of Rights:

The proposed change to HAR 16-71-21(e) violates two rights of local CPA firms as described in the Hawaii Small Business Bill of Rights. They are (underlined emphasis added below):

II. The right to a clear, stable, and predictable regulatory and record keeping environment with easily accessible information and administrative rules in as clear and concise language as is practicable, including the posting of all proposed administrative rule changes on the Internet website of the office of the lieutenant governor.

IV. The right to be treated equally and fairly, with reasonable access to state services.

Stable and Predictable Regulatory Environment: HAR 16-71-21(e) as currently written was adopted after the customary rule making and public hearing process. The pros and cons of HAR 16-71-21(e) were discussed at length by stakeholders at Board of Public Accountancy public meetings over the course of approximately a year and carefully considered by the previous Board of Public Accountancy before being adopted for the protection of Hawaii's consumers in January 2010. The implementation of the rule requiring permit holders (not license holders) to attest to the work experience of CPA candidates was delayed for approximately two years to provide time to accommodate CPA candidates and their employers impacted by this rule.

Now, just before HAR 16-71-21(e) is to take effect on January 1, 2012, the Board of Public Accountancy reversed its position in a single meeting with barely any discussion. Such flip-flopping on a rule that was thoroughly reviewed before passage creates an unstable and unpredictable regulatory environment for Hawaii's CPA profession.

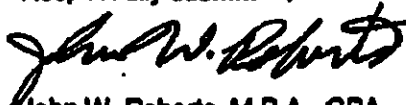
Right to Be Treated Equally and Fairly: CPA firms, government, and private industry compete in Hawaii to hire from the same pool of potential CPA candidates. In this competition to recruit talent, the proposed change to HAR 16-71-21(e) discriminates against local CPA firms in favor of government and private industry employers by exempting government and private industry from expensive training and permitting costs for their accounting personnel. Although costly and time consuming, this training is recognized by the AICPA as necessary for consumer protection and the professional development of CPAs. If it is in the interests of the public that the technical knowledge of CPAs be current, regardless of where they work, then CPA firms, government, and private industry employers of CPA candidates should face the same regulatory requirements as they compete to recruit and train the next generation of CPAs.

Common Sense:

The repeal of HAR Subsection 16-71-21(e) runs counter to the acceptance across the nation that the public is best served if CPAs obtain continuing professional education. Even the U.S. Internal Revenue Service has adopted the "more continuing professional education is better" standard in its registered tax preparer program. **But, by repealing HAR Subsection 16-71-21(e), the Board of Public Accountancy is saying that if some continuing professional education is good for the public's interest, then less continuing professional education is even better.** The Board's position that CPA candidates do not have to be supervised by CPA permit to practice holders who receive continuing professional education violates common sense.

Thank you for your consideration of this matter.

Respectfully submitted,



John W. Roberts, M.B.A., CPA
HAPA State President

TRANSCRIPT

Board of Public Accountancy (BOPA)
Public Meeting Following Public Hearing on HAR 16-71-21(e)
October 7, 2011

Audio Recording Time 00:00 - 12:37 minutes: Conduct of other BOPA business unrelated to HAR 16-71-21(e).

BOPA Chairperson Thomas Ueno: 12:37 minutes: The next point is consideration of amendment to uh HAR 16-71-21(e). **Uh, do you want to discuss any points on that? I can give you a summary as to what the Board has been talking about on this particular issue.** (Emphasis added.) Uh, first of all, uh, well when I look at it primarily at the discussions we have had, the testimonies that we have had, they are basically talking about criticizing or supporting the two-tier system that we have in Hawaii. Now we have licensure as well as we have the permit to practice. And basically what it is because we have a two-tier we also have different requirements for for each tier under the licensure requirement you know we have the pass the exam, you need to get your uh. . . years of skill, so many credit hours, and we also have the experience requirement at that time. But uh, and the only CPE that is required under the maintain licensure would be the ethics rules uh that we have right now, which is the four hours that is required. Uh, as opposed to the uh permit to practice where we we basically say that people in industry basically people in public practice they need to have a permit to practice. And to maintain your permit to practice then you need to have all these hours of CPE, which which includes the 80 hours of CPE for every each two year period. Okay. And so I think that the uh discussions that we have had are basically critical of that. . . of the two-tier structure. Okay. And that you know I certainly understand that that we are discussing you know this thing there are a lot of people saying we need to have CPE especially of the people uh who hold licenses licenses in general. Okay, so that is what I am saying it is more more more criticism of the two-tier structure than it is a criticism of the rule itself. Okay, and uh . . . I view this as uh when I started looking at this is that the correction of a rule is not the way to correct this if we want to correct this. And to change that and go back to go to a one-tier structure and again you you are right that in most states it is one-tier. Where you only have you know a license and the license does require CPE to maintain that license and it does not matter whether you practice in in the public, okay, or whether you are in government, industry, or whatever. And we also right off the bat I guess recently we just looking at the analysis of the CPAs. The majority of the CPAs are not in public practice okay they make up about 44%, I guess, of the people in of all CPAs are in public practice. The majority of them

are not. Now not does not mean that the majority are in government or industry but you know that some are retired CPAs, but they are doing but they are doing things other than in public practice. Okay. And in the other states they they have required that we only have one tier license CPE for that license. Hawaii does not. Okay and this is what has been done by previous legislatures and and I guess the our public okay saying that that is what they thought was necessary. All right. So that is what we reviewed then reflecting on that and how it reflects on this particular rule. Okay? Anything else?

Executive Officer Laureen Kai: Inaudible. . . decision making.

Chairperson Thomas Ueno: That's right. Is there any other discussion? Inaudible.

Assistant Attorney General Rod Tam: Inaudible . . . Somebody just has to make a motion one way or the other.

Chairperson Thomas Ueno: That's right.

Vice-Chairperson Kent Tsukamoto: I brought up the first motion, so I make a motion to amend the rule as presented.

Chairperson Thomas Ueno: Okay, is there a second to that motion?

Member Nelson K. M. Lau: Second.

Chairperson Thomas Ueno: So Nelson has seconded it. So there has been second. Is there any discussion?

Member Craig K. Hirai: Yes, um, I am going to vote no. Um, I believe that licensees should have continuing education, so I am going to vote no.

Chairperson Thomas Ueno: Is there any other discussion? Okay, are you ready inaudible okay, all those in favor in favor of the motion. . .

Executive Officer Laureen Kai: To amend the rule.

Chairperson Thomas Ueno: To amend the rule, okay maybe we can by a show of hands, all those in favor of amending the rule raise your hand? Okay. And, all those opposed? One. Okay. So the motion is carried. Okay.

Assistant Attorney General Rod Tam: To to repeal subsection "e"?

Chairperson Thomas Ueno: To repeal subsection "e".

Executive Officer Laureen Kai: To amend the rules as proposed.

Chairperson Thomas Ueno: Right. To amend the rule as proposed.

Unidentified: Inaudible.

Executive Officer Laureen Kai: Inaudible.

Chairperson Thomas Ueno: We will table the whole discussion on the revision of HAR 16-71-61. Inaudible. . . on independence, integrity, and objectivity.

Hawaii Association of Public Accountants (HAPA) Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: Tom? Tom? Excuse me. Uh, aren't you going to be explaining, um, why you are voting for the amendment? I mean, and address the concerns of those who submitted testimony against? (Emphasis added.)

Chairperson Thomas Ueno: Okay. That is what I was attempting to do. Uh, basically saying that the . . . I think that the . . . because we are basically talking about the um two tier . . . okay. . . and that we probably . . . I would think that the we um . . . a more appropriate thing to do on something like that is to make a law change on two tier. And to get that . . . if we want a one tier state. And then have hearings on that particular law. And that will correct everything that we are talking about now. That will correct everything. Okay, instead of trying to amend some parts of it, which to me looks like kind of a band aid kind of approach that we are trying to do here where we look at the issue that is at hand I understand the testimony that all of you presented. And all of your testimony goes toward this two tier . Okay, and then go to one tier. Then we have all of the CPE requirements be consistent. Because then . . . then. . . anybody () goes for a license under one tier would be required to have that uh that amount of CPE. Um, we have had discussion among us also, and it had to do with the difference between uh, CPE and as opposed to years of experience in the person in industry, okay, providing who is supervising the person and of also about the value of that years of experience. Uh, you know, working with a young person coming through as a who who wants to become a CPA. Okay, and gain that experience under an experienced leadership uh, you know, counts quite a bit too. And that person need not have his CPE but is actually on the job, things that he has learned, uh, from from the business world we think is also important.

Executive Officer Lauren Kai: Uh, also the discussion did center on that the board members felt very strongly that the adverse impact on expected applicants was significant enough that um . . . this rule change was necessary. . . uh, that's all I have. (Emphasis added.) Inaudible.

Chairperson Thomas Ueno: Do you have anything to add?

Member Nelson K. M. Lau: Inaudible. In light of this two tier . . . licensure as well as permit to practice . . . what we are focusing here on . . . what the applicant needs to obtain to get to that first tier the individual that would then be supporting that by acknowledging the level of experience would have at least that level of experience his or herself in making that assertion that that individual has experience enough in order to obtain the level of licensure, uh, and that at least the two of them be equal qualifications (inaudible).

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: Just want to bring up that in the past the board had accepted some applicants who were like payroll clerks, accounts payable clerks for experience equivalent to public accounting experience. And there was a big hoopla about the experience that the old board was accepting as experience equivalent to public accounting experience. . . and um uh HAPA felt that those people who are coming out with that kind of experience thinking that that would constitute public accounting experience, and, in turn, would go on and certify other people as having equivalent experience thinking that their experience was equivalent.

Executive Officer Lauren Kai: We addressed that at that point with clarification of its rules this last go around in 2010 and also they created a new form CPA-14 which is the certification of experience, which, um, actually laid down the requirements of each type of experience and made it easier for the board in its review of the experience to consider whether it is technically equivalent. The board has addressed that issue.

Assistant Attorney General Rod Tam: So I think the experience has to be the same, just the setting is different. So the rules they say here is the type of experience you have to have and it can be gained in different settings.

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: But that person would be have to be, have to judge, that the next person has experience equivalent to public accounting experience, and I think the problem was that the old board had accepted applicants who clearly did not have public accounting experience, and some of them were even doing accounting work. And so, the board, the old board, said okay to correct part of the problem we'll just require them to get CPE.

Assistant Attorney General Rod Tam: I think that is why they probably amended 16-71-21(e). Right?

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: Originally, correct. And now you are undoing that.

Assistant Attorney General Rod Tam: Well, that was something else. That was another amendment. I mean I think they amended the rules. Just to specify. . . to make it uniform . . . regardless of where you obtained the experience. Has to be non-clerical, non-ministerial, and that kind of stuff, blah, blah, blah, right? Um, but it did say that you could get it at least in these types of settings public accounting practice, government, private, academia.

Chairperson Thomas Ueno: Okay, except for that, as we go, as we went through all the applicants even this time, there were several of them that have public . . . in industry because of the kind of work that they were doing, okay, which is preparing financial statements, doing sometimes in participation in internal audit work, okay, we felt that that was substantially equivalent kind of experience and that met what the intent was for the experience requirement.

HAPA State President John Roberts, M.B.A., CPA: This is not an experience issue. It is an issue of what training the supervisor and certifier has only. It doesn't matter . . . CPA equals CPA . . . we are not fighting that issue.

Chairperson Thomas Ueno: I...I...I agree with you but I understand what you are saying. And that is why I go back. . . that is a two tier issue again. And we get back to that point, whatever that point is, that there is a higher requirement, a more stringent requirement, for people in public practice, and that means that they need to have a permit to practice and they need to have CPE. And that was done, I don't know, but that's what we have. And that is the system that we have today. Okay, and that is why I say why I say that we change that by changing the law, and I think that's what we have to do now.

Unidentified: The UAA.

Chairperson Thomas Ueno: The UAA.

Time: 26:56 minutes.

HAPA State President John Roberts, M.B.A., CPA: Will all the testimony be available for the public to purchase or pay fees to obtain copies?

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: May we see all the testimony that came in?

Chairperson Thomas Ueno: Yep, yeah, yeah.

HAPA State President John Roberts, M.B.A., CPA: Should we contact you on the procedures, of fees, etc.?

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: Or can you just give us a copy?

Executive Officer Lauren Kai: Inaudible.

Unidentified: Inaudible.

Executive Officer Lauren Kai: We need a written request for copies.

HAPA State President John Roberts, M.B.A., CPA: Do you need it in the OIP format?

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: Or can we just email you?

Executive Officer Lauren Kai: Inaudible. . . redact . . . some of the . . . residential addresses, etc., so it becomes an OIP request.

HAPA State President John Roberts, M.B.A., CPA: So it is an OIP request. Okay. Thank you.

Executive Officer Lauren Kai: I am sorry, but is how we need to do it. Actually you could ask the people that did . . . for their own copies.

HAPA State President John Roberts, M.B.A., CPA: But I don't know who testified.

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: Yeah, we don't know who testified. How many people testified.

Executive Officer Lauren Kai: Inaudible. . . that information. . . can I do that?

Assistant Attorney General Rod Tam: Inaudible.

HAPA State President John Roberts, M.B.A., CPA: You see, if this was the legislature, there would be no redaction.

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: Yeah, because it is public record once you give testimony.

Executive Officer Laureen Kai: Inaudible . . . it is considered public record, but there are some things that are considered nondisclosable. Inaudible.

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: This is not the same, that you do not have to disclose on a public hearing the name of the person and address?

Executive Officer Laureen Kai: Inaudible . . . governor. . . can't I give them a list of the people testifying?

Assistant Attorney General Rod Tam: Yes, it's public. It's all public.

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: I mean, yeah, I mean, you know . . .

Assistant Attorney General Rod Tam: She cannot say for sure whether she is going to redact anything. She just has to go through it.

HAPA Legislative Committee Co-Chair Marilyn Niwao: The legislature, when there is public testimony, it is there on the internet. Everybody just accesses it.

Executive Officer Laureen Kai: I can give them this list who submitted testimony.

HAPA State President John Roberts, J.D., CPA: We are not going to contact them. We are going to do an OIP request. We are going to write the check and the whole bit.

Chairperson Thomas Ueno: Okay.

Executive Officer Laureen Kai: (Inaudible) save you time.

HAPA State President John Roberts, M.B.A., CPA: Save you time.

Chairperson Thomas Ueno: All Right . . . inaudible. . . Dr. Karbens?

Jack Karbens, Ph. D.: Thank you when you explain that there are cases coming through that you have to exercise the same kind of judgment that we talk about all the time as CPAs , that there are cases where you deemed it as substantial equivalent and others where maybe it is not substantially equivalent. And that's your role. Right? Under the conditions we are dealing with. . . various types of experience. That's that's revealing.

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: Well the whole point the point is whether the person is still training, has to have continuing ed or not.

Jack Karbens, Ph.D.: Well . . .

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: You know. . . the supervisor even if is getting that kind of experience. The question is whether the supervisor needs to have training.

Jack Karbens, Ph. D.: Inaudible. . . that is more significant to me, and that is the description of the work that was done, where they worked, who their supervisors are, what titles they hold, and the candidate has to submit this description of what they did. And to me, that's quite heavy. Who knows what happens with supervisors. I know people who have been turned down by their supervisor who has been afraid to describe extremely high-quality quality quality experience cause they are afraid that they are going to be held to some standard about what they are attesting. But, the candidates had excellent experience. Um, but they never did even apply. You don't even know about some of the people who gave up taking 150 hours . . . who did not bother with the CPA exam . . . when they were told by their supervisor that there is no way I am going to risk attesting to your experience.

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: Okay, we'll just get the records. . . the testimony.

Chairperson Thomas Ueno: Yep. . . Yes, I'm sorry?

Gregg Taketa, CPA, of Taketa, Iwata, Hara & Associates, LLC on the Big Island: I just wanted to say that you know by repealing paragraph "e" I think that the Board has just created a situation that has to be corrected with legislation in requiring licensees to

acquire CPE. So based on your comments, can I interpret that to mean that the Board will be in favor of future legislation in that light?

Chairperson Thomas Ueno: Well, okay, at this stage, to say that the Board is in favor of it . . . we have not discussed it at that level to say whether the Board is in favor of legislation or not. Okay, but I can say that the uh the correct, the corrective action on this thing would be, to me anyway, ah through a change in legislation exactly as you as you are stating it. Okay.

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: So what what you are saying is that you guys are not going to support it?

Chairperson Thomas Ueno: Inaudible . . . develop legislation. Has to go to public hearing. Has to do all of that. Okay, and uh. At this stage, I have not polled all the them what their thinking is. I cannot tell you whether, you know, whether they are in favor of or not. I can tell what you what I think. Okay.

HAPA Legislative Committee Co-Chair Marilyn Niwao, J.D., CPA: Okay.

Chairperson Thomas Ueno: I am telling you that what I have expressed to you what is my thinking about this two-tier one-tier, and I believe that what the discussion is that we voted to inaudible that we go to a one-tier requiring CPE for the entire one tier and again that is what is happening in other states.

Executive Officer Laureen Kai: Inaudible. . . for consideration for the full board.

Chairperson Thomas Ueno: Correct. . . for the full board.

Gregg Taketa, CPA: So that is an indication of possibly of your position, the Board's position?

Executive Officer Laureen Kai: Inaudible.

Chairperson Thomas Ueno: There is no position on the part of the board. At this stage I do not want to speak you know for the board yet.

Executive Officer Laureen Kai: Inaudible.

Chairperson Thomas Ueno: Okay. Right. Something that we are going to have to discuss among the board. Within the board. 'Kay? Anything else anybody wants to add? Okay, let's move on.

Time 33:01. End of portion pertaining to HAR 16-71-21(e).

NOTICE TO REQUESTER

(Use multiple forms if necessary)

COPY

TO: John W. Roberts, President, Hawaii Association of Public Accountants
FROM: Board of Public Accountancy/Laureen M. Kai/808-586-2696
(Agency/name & telephone number of contact person at agency)

DATE REQUEST RECEIVED: October 13, 2011
DATE OF THIS NOTICE: October 24, 2011

GOVERNMENT RECORDS YOU REQUESTED (attach copy of request or provide brief description below)

A copy of the request is attached (Attachment #1).

NOTICE IS PROVIDED TO YOU THAT YOUR REQUEST:

- Will be granted in its entirety.
- Cannot be granted because
 - Agency does not maintain the records. Agency believed to maintain records: _____
 - Agency needs a further description or clarification of the records requested. Please contact the agency and provide the following information: _____
 - Request requires agency to create a summary or compilation from records not readily retrievable.
- Is denied in its entirety Will be granted only as to certain parts based upon the following exemption provided in HRS § 92F-13 and/or § 92F-22 and other laws cited below (portions of records that agency will not disclose should be described in general terms).

<u>RECORDS OR INFORMATION WITHHELD</u>	<u>APPLICABLE STATUTES</u>	<u>AGENCY JUSTIFICATION</u>
<u>Residence address of individual named in the record</u>	<u>HRS sections 92F-13(1) and 92F-13(3)</u>	<u>Information has been redacted where disclosure would constitute a clearly unwarranted invasion of personal privacy, or where the records must remain confidential in order to avoid the frustration of a legitimate government function.</u>
<u>Personal cellular telephone number of the individual named in the record</u>	<u>HRS sections 92F-13(1) and 92F-13(3)</u>	
<u>Personal e-mail addresses of the individuals named in the record</u>	<u>HRS sections 92F-13(1) and 92F-13(3)</u>	

REQUESTER'S RESPONSIBILITIES:

You are required to (1) pay any lawful fees assessed; (2) make any necessary arrangements with the agency to inspect, copy or receive copies as instructed below; and (3) provide the agency any additional information requested. If you do not comply with the requirements set forth in this notice within 20 business days after the postmark date of this notice or the date the agency makes the records available, you will be presumed to have abandoned your request and the agency shall have no further duty to process your request. Once the agency begins to process your request, you may be liable for any fees incurred. If you wish to cancel or modify your request, you must advise the agency upon receipt of this notice.

METHOD & TIMING OF DISCLOSURE:

Records available for public access in their entireties must be disclosed within a reasonable time, not to exceed 10 business days, or after receipt of any prepayment required. Records not available in their entireties must be disclosed within 5 business days of this notice or after receipt of any prepayment required. If incremental disclosure is authorized by HAR § 2-71-15, the first increment must be disclosed within 5 business days of this notice or after receipt of any prepayment required.

Method of Disclosure:

- Inspection at the following location: _____.
- Copy will be provided in the following manner:
 - Available for pick-up at the following location: _____.
 - Will be mailed to you (via United States Postal Service at your expense).
 - Will be transmitted to you by other means requested: _____.

Timing of Disclosure: All records, or first increment where applicable, will be made available or provided to you:

- On _____.
- After prepayment of fees and costs of \$ 14.43 (50% of fees +100% of costs, as estimated below).
Payment may be made by: cash personal check
 other: Cashier's check or money order (payable to Commerce and Consumer Affairs)

For incremental disclosures, each subsequent increment will be disclosed within 20 business days after:

- The prior increment (if one prepayment of fees is required and received).
 - Receipt of each incremental prepayment required.
- Disclosure is being made in increments because the records are voluminous and the following extenuating circumstances exist:
- Agency must consult with another person to determine whether the record is exempt from disclosure under HRS chapter 92F.
 - Request requires extensive agency efforts to search, review, or segregate the records or otherwise prepare the records for inspection or copying.
 - Agency requires additional time to respond to the request in order to avoid an unreasonable interference with its other statutory duties and functions.
 - A natural disaster or other situation beyond agency's control prevents agency from responding to the request within 10 business days.

ESTIMATED FEES & COSTS:

The agency is authorized to charge you certain fees and costs to process your request (even if no record is subsequently found to exist), but must waive the first \$30 in fees assessed for general requesters and the first \$60 in fees when the agency finds that the request made is in the public interest. See HAR §§ 2-71-19, -31 and -32. The agency may require prepayment of 50% of the total estimated fees and 100% of the total estimated costs prior to processing your request. The following is the estimate of the fees and costs that the agency will charge you, with the applicable waiver amount deducted:

Fees: Search	Estimate of time to be spent: _____ (\$2.50 for each 15-minute period)	\$ _____
Review & segregation	Estimate of time to be spent: <u>1 hour</u> (\$5.00 for each 15-minute period)	\$ <u>20.00</u>
Fees waived	<input type="checkbox"/> general (\$30) <input checked="" type="checkbox"/> public interest (\$60)	<\$ <u>60.00</u> >
Total Estimated Fees:		\$ <u>-0-</u>
Costs: Copying	Estimate of # of pages to be copied: <u>47</u> (@ \$ 0.25 per page)	\$ <u>11.75</u>
Other	<u>Estimated Mailing Costs</u>	\$ <u>2.68</u>
Total Estimated Costs:		\$ <u>14.43</u>

For questions about this notice, please contact the person named above. Questions regarding compliance with the UIPA may be directed to the Office of Information Practices at 808-586-1400 or oip@hawaii.gov.

**Hawaii State Board of Public Accountancy
Hearing on Proposed Changes to HAR 16-71-21
Oral Testimony of Gregg M. Taketa
October 7, 2011**

- 1. Unlike most of the other jurisdictions, Hawaii has two levels within the CPA licensing requirements – Permits to Practice which allows a CPA to hold themselves out to the public as CPAs and to practice public accounting and (2) CPA license which does not allow license holders to hold themselves out to the public as CPAs and to practice public accounting. (CPA license holders are not required to meet minimum CPE credit hour requirements or to undergo mandatory peer review. Consequently, license holders are not permitted to hold themselves out to the public as CPAs. Because of this, CPA license holders have a much lower standing than CPA permit holders)**
- 2. It isn't logical to allow CPA license holders with a much lower standing than a permit holder to supervise CPA candidates as they fulfill the experience requirement, as these candidates can immediately obtain a permit to practice and practice public accounting.**
- 3. It is ridiculous to change a law for the sole purpose of accommodating a few employers in their recruitment and retention of CPA candidates as employees.**
- 4. The proponents of this proposed rule change have not provided any compelling reason to vote in favor of reversing a rule approved by a previous Board. The rule that is being changed has not yet been in effect (with an effective date of January 1, 2012). Consequently, the Board has not had the opportunity to test the merits of the rule and any arguments in favor of the rule change are based purely on speculation.**
- 5. The board members that are about to vote "Yes" on this proposed rule change will be sending a clear message that they are willing to place the interest of a few individuals above their duty to protect the public.**



Taketa, Iwata, Hara & Associates, LLC

Certified Public Accountants & Consultants

101 Aupuni Street, Suite 139

Hilo, Hawaii 96720-4260

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LICENSING DIVISION

2011 SEP 23 P 12:06

DEPT. OF COMMERCE
CONSUMER AFFAIRS
STATE OF HAWAII

September 22, 2011

Thomas T. Ueno, CPA, Chairperson, Kent K. Tsukamoto, CPA, Vice Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

**Re: Testimony in opposition of proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a permit to
practice during the period of supervision of a new CPA candidate**

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the Board:

I am a practicing CPA in public accounting since 1979 and a member of Taketa, Iwata, Hara & Associates, LLC.

Based upon my knowledge and experience gained during my thirty two years as a CPA in public accounting, I urge you to vote no to repealing HAR subsection 16-71-21(e) which would require the experience of a new CPA candidate to be supervised by a CPA with a permit to practice and who is current with continuing professional education requirements of the profession.

As you are aware, CPA permit holders are required to obtain a minimum of 80 hours of CPE every two years in order to maintain their technical proficiency. In contrast, CPA license holders are only required to obtain 4 hours of ethics CPE every two years. Thus, CPA license holders may not be aware of the changes in audit methodology, accounting standards or income tax law. It is also possible that certain CPA license holders may have spent their entire career in private industry and/or government and never held a permit to practice public accounting.

Hawaii is one of the few jurisdictions that require both a license and a permit in order for a CPA to practice public accounting. Those that support this rule change need to understand that this is a key difference in comparing similar rules in other jurisdictions.

With respect to establishing rules, the Board of Public Accountancy's primary focus should be on the protection of the public, not to accommodate a few employers to improve their ability to recruit and retain employees. The proposed rule change is definitely not in the best interest of the public.

It would be unfair for the Board of Public Accountancy to treat employers in private industry or government favorably by requiring supervisors of CPA candidates to only hold a CPA license while I, an employer in public accounting, am required to hold both a CPA license and a permit to practice. As a small business owner that employs 20 people, I have a right to be treated equally and fairly, in accordance with article IV of the Hawaii Small Business Bill of Rights.

The rules that apply to the experience requirement must not be established and changed casually as the experience requirement is part of the minimum requirements that must apply to all CPA candidates. The Board must have compelling reasons to reverse the decisions of previous boards. In this respect, I believe that the proponents of this rule change failed to meet this test.

The experience gained by a CPA candidate must be taken as seriously as the other requirements of examination and education. The experience requirement is directly linked to the first general standard of generally accepted auditing standards – *"The auditor must have adequate training and technical proficiency to perform the audit"*. Attest work can only be performed by a CPA and is relied upon by the public. Attest work requires that the CPA exercise professional judgment when applying concepts such as the assessment of audit risk, materiality and adequacy of audit evidence. Development of a CPA's professional judgment cannot be acquired in the sterile environment of a classroom. It can only be learned through on-the-job training obtained while meeting the experience requirement.

The two year experience requirement must be adequate for all situations, including the extreme situation where a candidate immediately practices public accounting as a sole practitioner. In that situation, it would be illogical to allow a CPA license holder with lower stature (i.e. unable to hold themselves out to the public as a CPA and practice public accounting) to attest to the experience of a candidate who immediately receives a permit to practice.

Thank you for your consideration of this matter.

Very truly yours,


Gregg M. Taketa, CPA

KELLY A MARTIN CPA LLC
355 HUKILIKE STREET #204B
KAHULUI, HAWAII 96732

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2011 SEP 28 P 2:14
DEPT OF COMMERCE
CONSUMER AFFAIRS
STATE OF HAWAII

September 22, 2011

Thomas T. Ueno, CPA, Chairperson, Kent K. Tsukamoto, CPA, Vice Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

**Re: Testimony in opposition of proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a
permit to practice during the period of supervision of a new CPA
candidate**

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the Board:

I am certified public accountant with 20 years experience in public accounting.

I am against the proposed repeal of HAR subsection 16-71-21(e). In my opinion, a new CPA candidate should be supervised by someone who has kept current with continuing professional education (CPE) and who holds a current permit to practice during the period of supervision. Continuing professional education of a CPA is critical with today's rapidly changing accounting rules and tax law changes.

Based upon my knowledge and experience in accounting, I urge you vote no to repealing HAR subsection 16-71-21(e) which would require the experience of a new CPA candidate to be supervised by a CPA with a permit to practice and who is current with continuing professional education requirements of the profession.

Thank you for your consideration of this matter.

Very truly yours,



Kelly A Martin, Member
Kelly A Martin CPA LLC

SHEA & Co., CPAs, INC.

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LICENSING DIVISION
2011 SEP 21 P 2:04

1593 KAPIOLANI BOULEVARD
SUITE 1240
HONOLULU, HAWAII 96814-4327

DEPT OF COMMERCE
& CONSUMER AFFAIRS
STATE OF HAWAII
shea_and_co@hawaiicpa.net
(808) 949-4209
FAX (808) 941-9576

September 20, 2011

Thomas T. Ueno, CPA, Chairperson, Kent K. Tsukamoto, CPA, Vice Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

Re: Testimony in opposition of proposed amendment to repeal HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a permit to practice during the period of supervision of a new CPA candidate

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the Board:

I am Reynold Lum with 30 years experience in public accounting.

I am against the proposed repeal of HAR subsection 16-71-21(e). In my opinion, a new CPA candidate should be supervised by someone who has kept current with continuing professional education (CPE) and who holds a current permit to practice during the period of supervision. Continuing professional education of a CPA is critical with today's rapidly changing accounting rules and tax law changes.

Since the CPA profession is largely learned through on-the-job experience, it is critical for the development of CPA candidates that their supervisors maintain their current technical proficiency. CPA permit holders are required to obtain 80 hours of CPE every two years in order to maintain their technical proficiency. In contrast, CPA license holders are only required to obtain 4 hours of ethics CPE every two years. Therefore, it is obvious that Hawaii's consumers are best protected when a CPA candidate's work experience is under the supervision of and certified by someone who has maintained his or her current technical proficiency – a CPA permit holder. Even the Internal Revenue Service is imposing minimum CPE requirements of 15 hours a year for future unlicensed registered tax return preparers, who are not CPAs with permits to practice, attorneys, and EAs.

SHEA & CO., CPA's, INC.

CPAs in private industry or government are not prohibited from obtaining a permit and professional continuing education. As in the public sector, the new accounting rules and new tax laws are just as relevant for those in private industry and government, and those in private industry and government should strive to be technically proficient before they train new CPA candidates who would be allowed to practice before the public after obtaining the CPA license and permit.

When the rules originally passed requiring the supervisor of a new CPA candidate to be a CPA permit holder, a two-year grace period was added to accommodate those candidates who had started their experience requirement with a CPA who did not hold a permit to practice. Therefore, applicants who are currently working in the private sector or government had adequate notice of at least two years of the new requirement.

Based upon my knowledge and experience in accounting, I urge you vote no to repealing HAR subsection 16-71-21(e) which would require the experience of a new CPA candidate to be supervised by a CPA with a permit to practice and who is current with continuing professional education requirements of the profession.

Thank you for your consideration of this matter.

Very truly yours,



Reynold Lum
Certified Public Accountant

JAMES K. MICHISHIMA
Certified Public Accountant

88-1277 Kaahumanu Street Suite 143
Aiea, Hawaii 96701
Office (808) 487-9002 <http://www.imacpa.com>

September 19, 2011

RECEIVED
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LICENSING DIVISION
2011 SEP 21 P 2:05
DEPT OF COMMERCE
CONSUMER AFFAIRS
STATE OF HAWAII

Thomas T. Ueno, CPA, Chairperson
Kent K. Tsukamoto, CPA, Vice Chairperson
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

**Re: Testimony in opposition of proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a
permit to practice during the period of supervision of a new CPA
candidate**

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the Board:

I am against the proposed repeal of HAR subsection 16-71-21(e). In my opinion, a new CPA candidate should be supervised by someone who has kept current with continuing professional education (CPE) and who holds a current permit to practice during the period of supervision. Continuing professional education of a CPA is critical with today's rapidly changing accounting rules and tax law changes.

Since the CPA profession is largely learned through on-the-job experience, it is critical for the development of CPA candidates that their supervisors maintain their current technical proficiency. CPA permit holders are required to obtain 80 hours of CPE every two years in order to maintain their technical proficiency. In contrast, CPA license holders are only required to obtain 4 hours of ethics CPE every two years. Therefore, it is obvious that Hawaii's consumers are best protected when a CPA candidate's work experience is under the supervision of and certified by someone who has maintained his or her current technical proficiency – a CPA permit holder. Even the Internal Revenue Service is imposing minimum CPE requirements of 15 hours a year for future unlicensed registered tax return preparers, who are not CPAs with permits to practice, attorneys, and EAs.

CPAs in private industry or government are not prohibited from obtaining a permit and professional continuing education. As in the public sector, the new accounting rules and new tax laws are just as relevant for those in private industry and government, and those in private industry and government should strive to be technically proficient before they train new CPA candidates who would be allowed to practice before the public after obtaining the CPA license and permit.



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Testimony HAR Subsection 16-71-21(e)
Page 2
September 19, 2011

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Based upon my knowledge and experience in accounting, I urge you vote no to repealing HAR subsection 16-71-21(e) which would require the experience of a new CPA candidate to be supervised by a CPA with a permit to practice and who is current with continuing professional education requirements of the profession.

Thank you for your consideration of this matter.

Very truly yours,



James K. Michishima, CPA



The CPA. Never Underestimate The Value.®

CLARKE & ASSOCIATES, LLC

CERTIFIED PUBLIC ACCOUNTANTS

75-240 Nani Kailua Drive, Suite 6A

KAILUA-KONA, HI 96740

Ph: (808)331-8180 Fax: (808)331-8184

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2011 SEP 20 P 2 06

DEPT OF COMMERCE
& CONSUMER AFFAIRS
STATE OF HAWAII

September 19, 2011

Thomas T. Ueno, CPA, Chairperson, Kent K. Tsukamoto, CPA, Vice
Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

Re: Testimony in opposition of proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold
a permit to practice during the period of supervision of a new CPA
candidate

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the
Board:

I am David n. Clarke, CPA with sixteen years experience in public accounting.

I am against the proposed repeal of HAR subsection 16-71-21(e). In my opinion,
a new CPA candidate should be supervised by someone who has kept current
with continuing professional education (CPE) and who holds a current permit to
practice during the period of supervision. Continuing professional education of a
CPA is critical with today's rapidly changing accounting rules and tax law
changes.

Since the CPA profession is largely learned through on-the-job experience,
it is critical for the development of CPA candidates that their supervisors
maintain their current technical proficiency. CPA permit holders are required
to obtain 80 hours of CPE every two years in order to maintain their technical
proficiency. In contrast, CPA license holders are only required to obtain 4 hours
of ethics CPE every two years. Therefore, it is obvious that Hawaii's consumers
are best protected when a CPA candidate's work experience is under the
supervision of and certified by someone who has maintained his or her current
technical proficiency – a CPA permit holder. Even the Internal Revenue Service
is imposing minimum CPE requirements of 15 hours a year for future unlicensed
registered tax return preparers, who are not CPAs with permits to practice,
attorneys, and EAs.

Even the Internal Revenue Service is imposing minimum CPE requirements of 15 hours a year for future unlicensed registered tax return preparers, who are not CPAs with permits to practice, attorneys, and EAs.

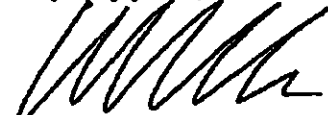
CPAs in private industry or government are not prohibited from obtaining a permit and professional continuing education. As in the public sector, the new accounting rules and new tax laws are just as relevant for those in private industry and government, and those in private industry and government should strive to be technically proficient before they train new CPA candidates who would be allowed to practice before the public after obtaining the CPA license and permit.

When the rules originally passed requiring the supervisor of a new CPA candidate to be a CPA permit holder, a two-year grace period was added to accommodate those candidates who had started their experience requirement with a CPA who did not hold a permit to practice. Therefore, applicants who are currently working in the private sector or government had adequate notice of at least two years of the new requirement.

Based upon my knowledge and experience in accounting, I urge you vote no to repealing HAR subsection 16-71-21(e) which would require the experience of a new CPA candidate to be supervised by a CPA with a permit to practice and who is current with continuing professional education requirements of the profession.

Thank you for your consideration of this matter.

Very truly yours,



David N. Clarke, CPA

DARLENE JO FERRANTINO, CPA



PO Box 2461
Kalaheo-Kona, Hawaii
96745-2461
808-324-0099

September 19, 2011

2011 SEP 22 P 3:24

Mr. Thomas Ueno, CPA Chairperson
Kent Tsukamoto, CPA Vice-Chair
Members of the Board of Public Accountancy
Professional / Vocational Licensing Div, DCCA
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

Dear Board Members:

I am submitting written testimony below against the proposed rule HAR 16-71-21(e). My testimony stands against the proposed change that would allow a licensed CPA, who does not have a permit to practice, to certify the experience requirement for a new CPA candidate. The CPA candidate is required to obtain "two years public accounting experience or its equivalent" in order to fulfill the experience requirement for CPA licensing.

- The proposed change ASSUMES that the CPA licensee supervisor (who will submit evidence for a new candidate) has the current industry knowledge to be qualified to train and determine if the equivalency requirement is met. Currently, CPAs not practicing in the profession and not holding a license to practice, are not required to obtain the 80 hours of continuing professional education (CPE) every two years. Without fulfilling this training, those in private industry or government positions may not be aware of current CPA standards and/or changes in standards. With the rapid changes now occurring in the accounting profession (i.e. recent changes in US Accounting Standards which were replaced with International Accounting Standards) and annual changes in tax laws, those submitting evidence may be basing their determination on outdated knowledge.

The Board is here to help protect the public. By allowing someone with outdated knowledge to determine if a new CPA candidate has met the "equivalency requirement" puts both the public and the profession at risk. In these times, we look to the Board to help minimize risk to the public and the profession. I do not want newly licensed CPAs, with substandard training, develop a CPA practice and have the potential to cause harm to other businesses and the public, especially in these economic times. This would dilute the value of a CPA license and permit to practice.

- The BoPA recently accepted CPA licensing experience obtained in private industry and government positions as "equivalent" to public accounting experience. However, the duties performed in private industry and various government positions do not mirror the audit or reporting experience of a public accountant. How can anyone who has not had public accounting experience certify that a CPA candidate has had experience "equivalent to public accounting experience" when they themselves have never had that experience? How would anyone know what public accounting experience really is without having performed in that realm themselves?

- Given that the CPA licensee supervisor does complete the 80 hours of CPE biannually and is required to report the approved courses to the licensing board, (not currently required) this still does not support that the person has had CPA professional experience himself in public accounting. Again, without himself having the professional CPA experience, he may not be qualified to determine if "equivalent experience" has been obtained by the CPA candidate.
- Additionally, the BoPA previously accepted accounts payable and payroll clerical-type experience as "qualifying equivalent experience". This alone undermines the entire profession as these two functions are bookkeeping duties, NOT CPA duties. In these circumstances, a bookkeeper may assume that he/she has obtained the experience "equivalent" to public accounting experience. Let's not make a similar mistake this time.
- In order to practice public accounting in Hawaii and before the Internal Revenue Service, Hawaii laws require that both a CPA license and permit to practice are obtained. No one else can hold themselves out as a CPA or practice public accounting without both the license and the permit. The permit holder is then required to obtain 80 hours of CPE every two years. Therefore, the BoPA can rely on the permit holder who is practicing or has practiced public accounting to be knowledgeable of current accounting standards. There is no assurance that anyone else has this knowledge or experience. Therefore, only the practicing permit holder should be considered technically capable of determining if the candidate's two years of public accounting experience is equivalent. Conversely, a CPA licensee supervisor/trainor who is not a practicing CPA, who has not met the annual CPE, is not qualified to determine what "equivalency" is or if it has been met.

I recommend that the BoPA recognize the importance for all CPAs to obtain CPE whether they are in public accounting, private industry or government positions. Continuing professional education for all CPAs is essential today.

The IRS is now requiring unlicensed registered tax return preparers to obtain 15 hours of continuing professional education per year in order to obtain a license to prepare tax returns in 2012. With the proposed change in rule HAR 16-71-21(e), the BoPA will be lowering the CPA professional licensing requirements while the IRS, at the same time, is strengthening their CPE requirements for tax practice. This points out that even bookkeepers/tax prepares are required to take more CPE than the CPA licensees who only have a 4 hour ethics CPE requirement. Does this make sense?

I thank you for your consideration and hope to see you reverse the direction you have recently taken.

Yours truly,



Darlene Jo Ferrantino, CPA
Kailua Kona, Hawaii 96745

MICHAEL H. LAU, CPA

3841 Kaimuki Avenue • Honolulu, Hawaii 96818 • Telephone (808) 738-0534 • E-mail: michael-lau@hawaii.net

RECEIVED
PROF & VOCATIONAL
LICENSING DIVISION

2011 SEP 26 A 11:29

DEPT OF COMMERCE
CONSUMER AFFAIRS
STATE OF HAWAII

September 20, 2011

Thomas T. Ueno, CPA, Chairperson, Kent K. Tsukamoto, CPA, Vice Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

**Re: Testimony in opposition of proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a permit to
practice during the period of supervision of a new CPA candidate**

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the Board:

I am Michael H. Lau with over twenty years experience in public accounting.

I am against the proposed repeal of HAR subsection 16-71-21(e). In my opinion, a new CPA candidate should be supervised by someone who has kept current with continuing professional education (CPE) and who holds a current permit to practice during the period of supervision. Continuing professional education of a CPA is critical with today's rapidly changing accounting rules and tax law changes.

Since the CPA profession is largely learned through on-the-job experience, it is critical for the development of CPA candidates that their supervisors maintain their current technical proficiency. CPA permit holders are required to obtain 80 hours of CPE every two years in order to maintain their technical proficiency. In contrast, CPA license holders are only required to obtain 4 hours of ethics CPE every two years. Therefore, it is obvious that Hawaii's consumers are best protected when a CPA candidate's work experience is under the supervision of and certified by someone who has maintained his or her current technical proficiency – a CPA permit holder. Even the Internal Revenue Service is imposing minimum CPE requirements of 15 hours a year for future unlicensed registered tax return preparers, who are not CPAs with permits to practice, attorneys, and EAs.

CPAs in private industry or government are not prohibited from obtaining a permit and professional continuing education. As in the public sector, the new accounting rules and new tax laws are just as relevant for those in private industry and government, and those in private industry and government should strive to be technically proficient before they train new CPA candidates who would be allowed to practice before the public after obtaining the CPA license and permit.

When the rules originally passed requiring the supervisor of a new CPA candidate to be a CPA permit holder, a two-year grace period was added to accommodate those candidates who had started their experience requirement with a CPA who did not hold a permit to practice. Therefore, applicants who are currently working in the private sector or government had adequate notice of at least two years of the new requirement.

Based upon my knowledge and experience in accounting, I urge you vote no to repealing HAR subsection 16-71-21(e) which would require the experience of a new CPA candidate to be supervised by a CPA with a permit to practice and who is current with continuing professional education requirements of the profession.

Thank you for your consideration of this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael H. Lau", with a long horizontal flourish extending to the right.

Michael H. Lau
Certified Public Accountant



MATSUMOTO GROUP

CPA INC • 1089 YOUNG STREET • SUITE 301 • HONOLULU • HAWAII 96814 • TELEPHONE: (808) 543-3926

FAX: (808) 537-6525

September 21, 2011

RECEIVED
PROF & VOCATIONAL
LICENSING DIVISION

2011 SEP 26 A 11: 28

Thomas T Ueno, CPA, Chairperson
Kent K Tsukamoto, CPA, Vice Chairperson
✓ Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, HI 96813

DEPT OF COMMERCE
CONSUMER AFFAIRS
STATE OF HAWAII

RE: Testimony in opposition of proposed amendment to repeal HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a permit to practice during the period of supervision on a new CPA candidate.

Dear Madam or Sirs,

My name is Gilbert Matsumoto and I have been a Certified Public Accountant in Hawaii since 1971, my certificate number is 524, so you can see that I am an "Old Timer."

The present Hawaii Accountancy Practice Law is a sound basic law built on several key "stepping stones" principally the Firm Permit to Practice.

Stepping Stone: In order to obtain a Firm Permit to Practice the entity (Sole Proprietorship, Partnership, Limited Liability Company/Partnership or Corporation) requires a Certified Public Accountant (CPA) with a Permit to Practice.

In order for a CPA to obtain a Permit to Practice, requires being a Certified Public Accountant and obtaining the necessary credits for continuing education.

Stepping Stone: To be a Certified Public Accountant in Hawaii, one must meet the mandatory educational requirements;
pass the Certified Public Accountancy exam;
and meet the provisions for accounting experience or it equivalent.

All other changes being proposed only tends to weaken the Statute or cloud the basic premises.

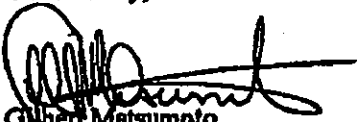
It only makes sense that if a CPA is to procreate a CPA that person must conform to the Hawaii State Statutes. Therefore I am opposed to the repeal of HAR subsection 16-71-21(e). The supervisor who is certifying to the candidates experience, he himself must be in conformity of the principals upon which the law is based.

Based on my personal experience and knowledge, as a side light as a local practitioner firm, many that I have trained and received their Certification "under my wing" were hired away from me by then the larger "National Firms", it only makes sense that in order to maintain the public's confidence that each of you take the responsibility and reject this proposed change.

Simply put, if the Law is not broken why try to fix it!

If this provision is passed each of you must bear the burden of the failure of the law.

Yours Truly,

A handwritten signature in black ink, appearing to read 'Gilbert Matsumoto', with a long horizontal flourish extending to the right.

Gilbert Matsumoto
Certified Public Accountant

Marilyn M. Niwao, J.D., CPA
2145 Wells Street, Suite 402
Wailuku, Hawaii 96793

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PROF & VOCATIONAL
LICENSING DIVISION
2011 SEP 26 A 11:33
DEPT OF COMMERCE
& CONSUMER AFFAIRS
STATE OF HAWAII

September 22, 2011

Thomas T. Ueno, CPA, Chairperson, Kent K. Tsukamoto, CPA, Vice Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

**Re: Testimony in opposition of proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a
permit to practice during the period of supervision of a new CPA
candidate**

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the Board:

I oppose the proposed repeal of HAR Subsection 16-71-21(e) which requires a supervising CPA to hold a permit to practice during the period of supervision of a new CPA candidate. I am a CPA with over 33 years of public accounting experience, and I have trained dozens of CPAs in the State of Hawaii through my firm and through previous employers. I am also a licensed attorney in the State of Hawaii.

A new CPA candidate should be supervised by someone who has kept current with continuing professional education (CPE) and who holds a current permit to practice during the period of supervision. Continuing professional education of a CPA is critical with today's rapidly changing accounting rules and tax law changes.

There are numerous reasons why HAR Subsection 16-71-21(e) should not be repealed, including the following:

1. The requirement that a supervisor certifying to the experience of a new CPA candidate hold a CPA permit to practice was discussed extensively by the Board of Public Accountancy in the past few years, and the rule was passed just last year (January 2010) with a two year phase-in period to accommodate new candidates who had already begun their qualifying experience under a CPA without a permit. The current Board recently voted to reverse the Board's previous position without much discussion.

2. See Hawaii Revised Statutes §466-10 Prohibited acts.

HRS §466-10 (c) specifies with regard to special knowledge:

"No person shall sign or affix the person's name or any trade or assumed name used by the person in the person's profession or business with any wording indicating, suggesting, or implying that the person is an accountant or auditor, or with any wording indicating, suggesting, or implying that the person has special knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:

(A) Financial information, or

(B) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations, unless the person holds a current license and a current permit to practice issued under this chapter." (emphasis added)

Allowing a person without a current license and current permit to practice to attest to the experience requirement of a new CPA candidate violates HRS §466-10 (c).

3. The CPA, whether in public accounting or private industry or government work has ethical responsibilities to the profession and to the public. The CPA has ethical obligations to perform his/her work with due care and with competence, and the proposed rule change would violate the ethical obligations of the CPA profession.

HRS §436B-19 specifies the grounds for refusal to renew, reinstate or restore and for revocation, suspension, denial, or condition of licenses, and further specifies that the Board may refuse to renew, reinstate or restore, or may deny, revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

9) Conduct or practice contrary to recognized standards of ethics for the licensed profession or vocation

The CPA professional ethics standards specify that competence in the profession is derived from education and experience. A CPA licensee who fails to obtain continuing professional education (CPE) is not likely to be competent. Furthermore, that CPA licensee without CPE does not serve the public trust by attesting to the experience requirement of a new CPA candidate if the HRS requires "two years of professional experience in public accountancy practice or its equivalent in private industry and government." The very nature of public accountancy practice demands that CPAs in public accountancy practice be current with continuing professional education by requiring CPAs in public practice to obtain a permit to practice. The permit to practice imposes on a CPA licensee the obligation to obtain 80 hours of professional continuing education every two years.

The following are selected provisions of some of the pertinent sections of the Principles of the Code of Professional Conduct for CPAs (i.e., CPA ethical standards, underlined emphasis added below) which apply to all CPA licensees:

ET Section 53 - Article II The Public Interest

Members should accept the obligation to act in a way that will serve the public interest, honor the public trust, and demonstrate commitment to professionalism.

.01

A distinguishing mark of a profession is acceptance of its responsibility to the public. The accounting profession's public consists of clients, credit grantors, governments, employers, investors, the business and financial community, and others who rely on the objectivity and integrity of certified public accountants to maintain the orderly functioning of commerce. This reliance imposes a public interest responsibility on certified public accountants. The public interest is defined as the collective well-being of the community of people and institutions the profession serves.

.02

In discharging their professional responsibilities, members may encounter conflicting pressures from among each of those groups. In resolving those conflicts, members should act with integrity, guided by the precept that when members fulfill their responsibility to the public, clients' and employers' interests are best served.

.03

Those who rely on certified public accountants expect them to discharge their responsibilities with integrity, objectivity, due professional care, and a genuine interest in serving the public. They are expected to provide quality services, enter into fee arrangements, and offer a range of services—all in a manner that demonstrates a level of professionalism consistent with these Principles of the Code of Professional Conduct.

ET Section 56 - Article V - Due Care

A member should observe the profession's technical and ethical standards, strive continually to improve competence and the quality of services, and discharge professional responsibility to the best of the member's ability.

.01 The quest for excellence is the essence of due care. Due care requires a member to discharge professional responsibilities with competence and diligence. It imposes the obligation to perform professional services to the best of a member's ability with concern for the best interest of those for whom the services are performed and consistent with the profession's responsibility to the public.

.02 Competence is derived from a synthesis of education and experience. It begins with a mastery of the common body of knowledge required for designation as a certified public accountant. The maintenance of competence requires a commitment to learning and professional improvement that must continue throughout a member's professional life. It is a member's individual responsibility. In all engagements and in all responsibilities, each member should undertake to achieve a level of competence that will assure that the quality

of the member's services meets the high level of professionalism required by these Principles.

.03 Competence represents the attainment and maintenance of a level of understanding and knowledge that enables a member to render services with facility and acumen. It also establishes the limitations of a member's capabilities by dictating that consultation or referral may be required when a professional engagement exceeds the personal competence of a member or a member's firm. Each member is responsible for assessing his or her own competence—of evaluating whether education, experience, and judgment are adequate for the responsibility to be assumed.

.04 Members should be diligent in discharging responsibilities to clients, employers, and the public. Diligence imposes the responsibility to render services promptly and carefully, to be thorough, and to observe applicable technical and ethical standards.

.05 Due care requires a member to plan and supervise adequately any professional activity for which he or she is responsible.

Please also note that there are other ethical standards that may preclude a CPA licensee without a permit and without continuing professional education to attest or certify the public accounting (or its equivalent) experience of a new CPA candidate. If the Board of Public Accountancy wishes to pass this proposed rule regarding attestation of a CPA candidate's experience, then changes should be made to HRS §436B-19 which specifies that licensees should follow the recognized ethical standards of the licensed profession. Those ethical standards include serving the public interest and honoring the public trust.

- 4. Since the CPA profession is largely learned through on-the-job experience, it is vital for the development of CPA candidates that their supervisors maintain their current technical proficiency. CPA permit holders are required to obtain 80 hours of CPE every two years in order to maintain their technical proficiency. In contrast, CPA license holders are only required to obtain 4 hours of ethics CPE every two years. Therefore, it is obvious that Hawaii's consumers are best protected when a CPA candidate's work experience is under the supervision of and certified by someone who has maintained his or her current technical proficiency – a CPA permit holder. Even the Internal Revenue Service is imposing minimum CPE requirements of 15 hours a year for future unlicensed registered tax return preparers, who are not CPAs with permits to practice, attorneys, and EAs.**
- 5. Due to changes in the law in recent years which allowed "equivalent" experience in private industry or government to substitute for the public accounting experience required for CPA licensing, it is possible that a current CPA license holder who is certifying that a candidate has obtained professional experience equivalent to public accounting experience has never practiced public accounting and is unaware of**

what constitutes the professional experience in public accounting. Requiring CPA license holders in private industry and government to obtain CPE and a permit to practice would at least provide that the supervisor of a new CPA candidate would be more technically current in his/her knowledge of accounting rules and tax laws.

6. CPAs in private industry or government are not prohibited from obtaining a permit and continuing professional education. As in the public sector, the new accounting rules and new tax laws are just as relevant for those in private industry and government, and those in private industry and government should strive to be technically proficient before they train new CPA candidates who would be allowed to practice before the public after obtaining the CPA license and permit.

Currently there are CPA licensees in private industry and government who have obtained the permit to practice and requisite CPE, and new applicants can seek to be supervised under these CPAs who have permits to practice.

7. When the rules originally passed requiring the supervisor of a new CPA candidate to be a CPA permit holder, there was ample opportunity for new applicants to testify against the rule change. In order to accommodate applicants who had already started the process of obtaining the experience requirement in private industry or government under a CPA licensee without a permit, the Board added a two-year grace period to postpone the implementation date of the rule. Applicants have had adequate notice of the rule requiring supervision to be under a CPA licensee with a permit to practice.

Based upon my knowledge and experience of public accounting and the work of private industry and government accountants, and in light of my testimony, I respectfully ask you to reconsider the proposal to repeal HAR subsection 16-71-21(e) which would require the experience of a new CPA candidate to be supervised by a CPA with a permit to practice and who is current with continuing professional education requirements of the profession. Continuing professional education for all CPAs is essential in today's world, especially with the rapidly changing accounting rules and tax laws.

Thank you for your consideration of this matter.

Respectfully submitted,



Marilyn M. Niwao, J.D., CPA

Information Redacted

~~CAROL S. UHL, CPA~~

RECEIVED
PROF & VOCATIONAL
LICENSING DIVISION
2011 SEP 26 A 11:30
DEPT OF COMMERCE
BUSINESS AFFAIRS
STATE OF HAWAII

September 22, 2011

Thomas T. Ueno, CPA, Chairperson,
Kent K. Tsukamoto, CPA, Vice Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

**Re: Testimony in opposition to proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a
Hawaii permit to practice during the period of supervision of a new
CPA licensure applicant, effective January 1, 2012**

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the Board:

My name is Carol S. Uhl, and I have over 30 years of experience as a CPA in public accounting in the State of Hawaii.

I oppose the repeal of HAR subsection 16-71-21(e). To qualify for CPA licensure, the "Certification of Public Accountancy Experience" should be signed and certified by a supervising CPA holding both an active CPA license and Hawaii permit to practice. The completion of two years of professional experience in public accountancy practice that is required to be met by applicants for a CPA license continues to be a valid requirement that should not be further eroded.

Since the CPA profession is largely learned through on-the-job experience, it is critical for the development of CPA candidates that their supervisors maintain their current technical proficiency. CPA permit holders are required to obtain 80 hours of CPE every two years in order to maintain their technical proficiency. In contrast, CPA license holders are only required to obtain 4 hours of ethics CPE every two years. Therefore, it is obvious that Hawaii's consumers are best protected when a CPA candidate's work experience is under the supervision of and certified by someone who has maintained his or her current technical proficiency – a CPA permit holder.

Board of Public Accountancy

Page 2

September 22, 2011

CPAs in private industry or government are not prohibited from obtaining a permit and continuing professional education. As in the public sector, the new accounting rules and new tax laws are just as relevant for those in private industry and government, and those in private industry and government should strive to be technically proficient before they train new CPA candidates who would be allowed to practice before the public after obtaining their CPA license and permit.

When the rules were originally passed requiring the supervisor of a new CPA candidate to be a CPA permit holder, a two-year grace period was added to accommodate those candidates who had started their experience requirement with a CPA who did not hold a permit to practice. Therefore, applicants who are currently working in the private sector or government had adequate notice of at least two years of the new requirement.

Based upon my knowledge and experience in public accounting, I urge you not to repeal HAR subsection 18-71-21(e) which would require that the professional experience of a new CPA licensure applicant be supervised by a CPA with a permit to practice and who is therefore current with the continuing professional education requirements of our profession.

Thank you for continuing to maintain the standards of our profession.

Very truly yours,

Carol S. Uhl

Carol S. Uhl, C.P.A.

Michele A. Kato & Co., LLC

*Millward Professional Suites - 1724 Wai Pa Loop, Suite 200, Wailuku, Hawaii 96793
Phone (808) 249-2727 Fax (808) 249-2122*

RECEIVED
PROFESSIONAL
LICENSING DIVISION

2011 SEP 26 A 11:31

DEPT OF COMMERCE
CONSUMER AFFAIRS
STATE OF HAWAII

September 22, 2011

Thomas T. Ueno, CPA, Chairperson, Kent K. Tsukamoto, CPA, Vice
Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

**Re: Testimony in opposition of proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold
a permit to practice during the period of supervision of a new
CPA candidate**

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the
Board:

I am a certified public accountant with 28 years of experience in public
accounting. I am against the proposed repeal of HAR subsection 16-71-21(e).
In my opinion, a new CPA candidate should be supervised by someone who has
kept current with continuing professional education (CPE) and who holds a
current permit to practice during the period of supervision. Continuing
professional education of a CPA is critical with today's rapidly changing
accounting rules and tax law changes.

Since the CPA profession is largely learned through on-the-job experience,
it is critical for the development of CPA candidates that their supervisors
maintain their current technical proficiency. CPA permit holders are required
to obtain 80 hours of CPE every two years in order to maintain their technical
proficiency. In contrast, CPA license holders are only required to obtain 4 hours
of ethics CPE every two years. Therefore, it is obvious that Hawaii's consumers
are best protected when a CPA candidate's work experience is under the
supervision of and certified by someone who has maintained his or her current
technical proficiency - a CPA permit holder. Even the Internal Revenue Service
is imposing minimum CPE requirements of 15 hours a year for future unlicensed
registered tax return preparers, who are not CPAs with permits to practice,
attorneys, and EAs.

CPAs in private industry or government are not prohibited from obtaining a permit and professional continuing education. As in the public sector, the new accounting rules and new tax laws are just as relevant for those in private industry and government, and those in private industry and government should strive to be technically proficient before they train new CPA candidates who would be allowed to practice before the public after obtaining the CPA license and permit.

When the rules originally passed requiring the supervisor of a new CPA candidate to be a CPA permit holder, a two-year grace period was added to accommodate those candidates who had started their experience requirement with a CPA who did not hold a permit to practice. Therefore, applicants who are currently working in the private sector or government had adequate notice of at least two years of the new requirement.

Based upon my knowledge and experience in accounting, I urge you vote no to repealing HAR subsection 16-71-21(e) which would require the experience of a new CPA candidate to be supervised by a CPA with a permit to practice and who is current with continuing professional education requirements of the profession.

Thank you for your consideration of this matter.

Very truly yours,



Information Redacted

Colleen M. Takamura, CPA

RECEIVED
PROFESSIONAL
LICENSING DIVISION

2011 SEP 26 A 11:32

DEPT OF COMMERCE
CONSUMER AFFAIRS
STATE OF HAWAII

September 23, 2011

Thomas T. Ueno, CPA, Chairperson, Kent K. Tsukamoto, CPA, Vice Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

**Re: Testimony in opposition of proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a
permit to practice during the period of supervision of a new CPA
candidate**

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the Board:

My name is Colleen Takamura. I am a CPA licensed in Hawaii and have been working in public accounting for 28 years. My father was a CPA on Kauai and in Hilo and has since retired. I started off working in his public accounting practice while in high school and during breaks from college. After obtaining my bachelors degree in accounting at the University of Denver and my masters degree in accounting from Ohio State University, I returned to Hawaii to work on the island of Maui for Deloitte Haskins and Sells (at that time - Deloitte and Touche now), then for a local CPA firm. At that time, the additional education requirements were not in place but my father told me get my masters in accounting as the additional education will be a requirement soon. I think that the college education that you receive is a stepping stone to the experience that you get from working at a CPA firm. You are subject to so many different areas of accounting that you keep with you the rest of your life. After graduating from college, there was no question as to where I would work. I knew that I had to work in public accounting to gain my experience and pass to the CPA exam to become a licensed CPA. That was my goal. What has changed to make you think that being supervised by someone other than a licensed CPA is good for the CPA candidate or the public? I have worked in private industry. There are different challenges but your focus is only on position at the company. I think you do not have the variety of situations or clients as

you do with working at a public accounting firm. As a licensed CPA, I have been required to keep current with my profession by taking at least 80 hours CPE courses every two years. I have had to submit the courses taken to the Board of Accountancy to obtain a current license to practice.

Considering my background, I am totally against the proposed repeal of HAR subsection 16-71-21(e). I think a new CPA candidate should be supervised by someone who has kept current with continuing professional education (CPE) and who holds a current permit to practice during the period of supervision. Continuing professional education of a CPA is critical with today's rapidly changing accounting rules and tax law changes.

Since the CPA profession is largely learned through on-the-job experience, it is critical for the development of CPA candidates that their supervisors maintain their current technical proficiency. CPA permit holders are required to obtain 80 hours of CPE every two years in order to maintain their technical proficiency. In contrast, CPA license holders are only required to obtain 4 hours of ethics CPE every two years. Therefore, it is obvious that Hawaii's consumers are best protected when a CPA candidate's work experience is under the supervision of and certified by someone who has maintained his or her current technical proficiency – a CPA permit holder. Even the Internal Revenue Service is imposing minimum CPE requirements of 15 hours a year for future unlicensed registered tax return preparers, who are not CPAs with permits to practice, attorneys, and EAs.

CPAs in private industry or government are not prohibited from obtaining a permit and professional continuing education. As in the public sector, the new accounting rules and new tax laws are just as relevant for those in private industry and government, and those in private industry and government should strive to be technically proficient before they train new CPA candidates who would be allowed to practice before the public after obtaining the CPA license and permit.

When the rules originally passed requiring the supervisor of a new CPA candidate to be a CPA permit holder, a two-year grace period was added to accommodate those candidates who had started their experience requirement with a CPA who did not hold a permit to practice. Therefore, applicants who are currently working in the private sector or government had adequate notice of at least two years of the new requirement.

Based upon my knowledge and experience in accounting, I urge you vote no to repealing HAR subsection 16-71-21(e) which would require the experience of a new CPA candidate to be supervised by a CPA with a permit to practice and who is current with continuing professional education requirements of the profession.

Thank you for your consideration of this matter.

Very truly yours,

A handwritten signature in black ink that reads "Colleen M. Takamura". The signature is written in a cursive, slightly slanted style.

Colleen M. Takamura

Dean
MIYAMOTO, CPA
A PROFESSIONAL CORPORATION

1600 Kapiolani Blvd., Suite 1670
Honolulu, Hawaii 96814
TEL (808) 973-9300
FAX (808) 973-9301
www.dmcpcainc.com

2011 SEP 22 P 3:23

September 19, 2011

DEPARTMENT OF COMMERCE
AND CONSUMER AFFAIRS
HAWAII

Thomas T. Ueno, CPA, Chairperson,
Kent K. Tsukamoto, CPA, Vice Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

**Re: Testimony in opposition of proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a
permit to practice during the period of supervision of a new CPA
candidate**

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the
Board:

I am Dean Miyamoto with over 33 years experience in public accounting.

I am against the proposed repeal of HAR subsection 16-71-21(e). In my
opinion, a new CPA candidate should be supervised by someone who has kept
current with continuing professional education (CPE) and who holds a current
permit to practice during the period of supervision. Continuing professional
education of a CPA is critical with today's rapidly changing accounting rules and
tax law changes.

Since the CPA profession is largely learned through on-the-job
experience, it is critical for the development of CPA candidates that their
supervisors maintain their current technical proficiency. CPA permit
holders are required to obtain 80 hours of CPE every two years in order to
maintain their technical proficiency. In contrast; CPA license holders are only
required to obtain 4 hours of ethics CPE every two years. Therefore, it is
obvious that Hawaii's consumers are best protected when a CPA candidate's
work experience is under the supervision of and certified by someone who has
maintained his or her current technical proficiency – a CPA permit holder. Even
the Internal Revenue Service is imposing minimum CPE requirements of 15
hours a year for future unlicensed registered tax return preparers, who are not
CPAs with permits to practice, attorneys, and EAs.

CPAs in private industry or government are not prohibited from obtaining a permit and professional continuing education. As in the public sector, the new accounting rules and new tax laws are just as relevant for those in private industry and government, and those in private industry and government should strive to be technically proficient before they train new CPA candidates who would be allowed to practice before the public after obtaining the CPA license and permit.

When the rules originally passed requiring the supervisor of a new CPA candidate to be a CPA permit holder, a two-year grace period was added to accommodate those candidates who had started their experience requirement with a CPA who did not hold a permit to practice. Therefore, applicants who are currently working in the private sector or government had adequate notice of at least two years of the new requirement.

Based upon my knowledge and experience in accounting, I urge you vote no to repealing HAR subsection 16-71-21(e) which would require the experience of a new CPA candidate to be supervised by a CPA with a permit to practice and who is current with continuing professional education requirements of the profession.

Thank you for your consideration of this matter.

Very truly yours,



Dean Miyamoto CPA

*Also I am sure you also agree that the training,
type of experience, quality, controls, judgement... etc
of CPA candidate can learn from a practicing CPA
or CPA firm cannot be matched (matched) elsewhere!*

DL

2011 SEP 22 P 3:23
STATE OF MICHIGAN
OFFICE OF THE CLERK
TREASURY DEPARTMENT



HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

Organized August 7, 1943
P.O. BOX 61043
HONOLULU, HAWAII 96839

10-07-11

*added @ PH day
to replace previous
email copy.*



October 5, 2011

Thomas T. Ueno, CPA, Chairperson, Kent K. Tsukamoto, CPA, Vice Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

**Re: Testimony in opposition of proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a
permit to practice during the period of supervision of a new CPA
candidate.**

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the Board:

The board of directors of the Hawaii Association of Public Accountants (HAPA) opposes the proposed amendment to repeal HAR Subsection 16-71-21(e) because the repeal would result in CPA license-only holders violating:

1. HRS §466-10 Prohibited Acts.
2. The ethical standards promulgated by the American Institute of Certified Public Accountants (AICPA), an integral part of the regulatory framework for CPAs in Hawaii under HRS §436B-19, including:
 - a. ET Section 53 - Article II The Public Interest; and
 - b. ET Section 56 - Article V - Due Care.
3. Common sense.

Furthermore, the repeal of HAR Subsection 16-71-21(e) would in itself violate sections II and IV of the Hawaii Small Business Bill of Rights.

Based on these resulting violations of Hawaii Revised Statutes, AICPA Ethical Standards, and Hawaii's Small Business Bill of Rights, HAPA urges the Board of Public Accountancy to reconsider its position and withdraw its proposed amendment to repeal HAR Subsection 16-71-21(e). The following presents HAPA's concerns in more detail.

HRS §466-10 Prohibited Acts:

HRS §466-10 defines the legal use of the titles "certified public accountant" and "CPA." As shown below, HRS §466-10 (1) clearly states that a person must hold both a current license and a current permit to practice in order to legally use the title or designation "certified public accountant" or "CPA."

"Except as otherwise provided in subsection (d) of this section, no person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, sign, card, or device likely to be confused with "certified public accountant" or "CPA" or tending to indicate that the person is a certified public accountant, unless the person holds a current license of certified public accountant issued under this chapter and a current permit to practice issued under this chapter (emphasis added);"

One of the core issues related to the use of professional titles or designations "certified public accountant" and "CPA" is the representation of special knowledge. This issue is specifically and clearly addressed in detail in HRS §466-10 (c) (1) below.

"No person shall sign or affix the person's name or any trade or assumed name used by the person in the person's profession or business with any wording indicating, suggesting, or implying that the person is an accountant or auditor, or with any wording indicating, suggesting, or implying that the person has special knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:

- (A) Financial information, or
- (B) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations, unless the person holds a current license and a current permit to practice issued under this chapter (emphasis added)."

In light of the above, HAPA believes that repealing HAR Subsection 16-71-21(e) and allowing a person without a current license and a current permit to practice to attest to the experience requirement of a new CPA candidate is a prohibited act that violates HRS §466-10 (c).

HRS §436B-19 and CPA Ethical Standards:

HRS §436B-19 (9) specifies the grounds for revocation, suspension, renewal, restoration, denial, or condition of licenses. It says:

“. . . In addition to any other acts or conditions provided by law, the licensing authority may refuse to renew, reinstate or restore or may deny, revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

(9) Conduct or practice contrary to recognized standards of ethics for the licensed profession or vocation (emphasis added);

Given that the AICPA Principles of the Code of Professional Conduct for CPAs, also known as the Code of Ethical (ET) Standards, are universally recognized as the standards of ethics for CPAs in Hawaii regardless of whether a Hawaii CPA license or permit holder is a member of the AICPA, any changes to the Hawaii Administrative Rules must not contradict or place a CPA license or permit holder in a position where he or she would violate any of the AICPA ET Standards. The repeal of HAR Subsection 16-71-21(e), however, would create precisely this contradiction/violation.

ET Section 53 Article II – The Public Interest:

ET §53.01 states:

“A distinguishing mark of a profession is acceptance of its responsibility to the public. The accounting profession’s public consists of clients, credit grantors, governments, employers, investors, the business and financial community, and others who rely on the objectivity and integrity of certified public accountants to maintain the orderly functioning of commerce. This reliance imposes a public interest responsibility on certified public accountants. The public interest is defined as the collective well-being of the community of people and institutions the profession serves (emphasis added).”

ET §53.04 further states:

“All who accept membership in the American Institute of Certified Public Accountants commit themselves to honor the public trust. In return for the faith that the public reposes in them, members should seek continually to demonstrate their dedication to professional excellence.”

With respect to the certification of work experience of CPA candidates, ET §53 obligates supervisors of CPA candidates to accept their responsibility to the public and seek continually to demonstrate their dedication to professional excellence. In other words, supervisors certifying the experience of CPA candidates have an obligation to the public to remain technically current themselves through continuing professional education. CPA permit holders meet this standard; CPA license holders do not.

ET Section 56 Article V – Due Care:

ET §56.02 states:

"Competence is derived from a synthesis of education and experience. It begins with a mastery of the common body of knowledge required for designation as certified public accountant. The maintenance of competence requires a commitment to learning and professional improvement that must continue throughout a member's professional life. It is a member's individual responsibility. In all engagements and in all responsibilities, each member should undertake to achieve a level of competence that will assure that the quality of the member's services meets the high level of professional required by these Principles (emphasis added)."

A CPA licensee who fails to obtain continuing professional education (CPE) is not likely to be competent. Furthermore, that CPA licensee without CPE does not serve the public trust by attesting to the experience requirement of a CPA candidate under his or her supervision if the HRS requires "two years of professional experience in public accountancy practice or its equivalent in private industry and government (emphasis added)." The very nature of public accountancy practice demands that CPAs in public accountancy practice be current with continuing professional education by requiring CPAs in public practice to obtain a permit to practice. The permit to practice imposes on a CPA licensee the obligation to obtain 80 hours of professional continuing education every two years.

ET §56.05 states:

"Due care requires a member to plan and supervise adequately any professional activity for which he or she is responsible (emphasis added)."

On-the-job training and supervision of CPA candidates is a professional activity that demands the supervisor maintain current technical and other professional knowledge, which is normally obtained by continuing professional education currently not required of CPA licensees. In a profession where on-the-job training is critical, it is just that simple.

Hawaii Small Business Bill of Rights:

The proposed change to HAR 16-71-21(e) violates two rights of local CPA firms as described in the Hawaii Small Business Bill of Rights. They are (underlined emphasis added below):

II. The right to a clear, stable, and predictable regulatory and record keeping environment with easily accessible information and administrative rules in as clear and concise language as is practicable, including the posting of all proposed administrative rule changes on the Internet website of the office of the lieutenant governor.

IV. The right to be treated equally and fairly, with reasonable access to state services.

Stable and Predictable Regulatory Environment: HAR 16-71-21(e) as currently written was adopted after the customary rule making and public hearing process. The pros and cons of HAR 16-71-21(e) were discussed at length by stakeholders at Board of Public Accountancy public meetings over the course of approximately a year and carefully considered by the previous Board of Public Accountancy before being adopted for the protection of Hawaii's consumers in January 2010. The implementation of the rule requiring permit holders (not license holders) to attest to the work experience of CPA candidates was delayed for approximately two years to provide time to accommodate CPA candidates and their employers impacted by this rule.

Now, just before HAR 16-71-21(e) is to take effect on January 1, 2012, the Board of Public Accountancy reversed its position in a single meeting with barely any discussion. Such flip-flopping on a rule that was thoroughly reviewed before passage creates an unstable and unpredictable regulatory environment for Hawaii's CPA profession.

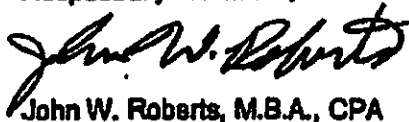
Right to Be Treated Equally and Fairly: CPA firms, government, and private industry compete in Hawaii to hire from the same pool of potential CPA candidates. In this competition to recruit talent, the proposed change to HAR 16-71-21(e) discriminates against local CPA firms in favor of government and private industry employers by exempting government and private industry from expensive training and permitting costs for their accounting personnel. Although costly and time consuming, this training is recognized by the AICPA as necessary for consumer protection and the professional development of CPAs. If it is in the interests of the public that the technical knowledge of CPAs be current, regardless of where they work, then CPA firms, government, and private industry employers of CPA candidates should face the same regulatory requirements as they compete to recruit and train the next generation of CPAs.

Common Sense:

The repeal of HAR Subsection 16-71-21(e) runs counter to the acceptance across the nation that the public is best served if CPAs obtain continuing professional education. Even the U.S. Internal Revenue Service has adopted the "more continuing professional education is better" standard in its registered tax preparer program. **But, by repealing HAR Subsection 16-71-21(e), the Board of Public Accountancy is saying that if some continuing professional education is good for the public's interest, then less continuing professional education is even better.** The Board's position that CPA candidates do not have to be supervised by CPA permit to practice holders who receive continuing professional education violates common sense.

Thank you for your consideration of this matter.

Respectfully submitted,



John W. Roberts, M.B.A., CPA
HAPA State President

HAWAII PACIFIC UNIVERSITY



BUSINESS ADMINISTRATION

October 3, 2011

Laureen M. Kai, Executive Officer
Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
P. O. Box 3469
Honolulu, HI 96801

Re: Testimony in Strong Support of the Repeal of section 16-71-21(e)

Dear Ms. Kai,

Thank you for the opportunity to comment on the proposed change to the experience requirement for a Hawaii CPA license. I am a CPA and CMA with ten years of accounting experience at Hawaiian Electric Company. In addition, I have over twenty-five years of experience teaching accounting and finance at Hawaii Pacific University, University of Hawaii – West Oahu, and Honolulu Community College. I regularly attend the Annual Conferences of the American Accounting Association and the Teachers of Accounting at Two Year Colleges.

I strongly support the proposed repeal of section 16-71-21(e). Accounting is not only practiced in public accounting firms by accountants with both a license and a permit to practice in this State. Accounting also thrives in private industry, government, non-profit organizations and institutions of higher education.

If we allow this requirement to remain as written, we are in effect establishing two classes of accountants. In addition, we are stating that one class is superior to the other. This superiority is not based on experience or background. This superiority is simply based on where in the profession this accountant decides to work. We are allowing these public firm accountants to act as the sole gatekeepers of our profession. Deciding who is or is not allowed entrance.

For many years, I have noted a moderate decline in the number of students who become accounting majors. Nationally we are also experiencing a shortage of Accounting Professors. I would hate to think what would happen to these numbers in the near future if we maintain this hurdle in their path.

Repeal of section 16-71-21(e) strikes a blow for equality. No longer will we discriminate against certain sectors of accountants. Having a permit to practice does not add or change the ability of a supervisor to judge the work of their subordinate. The requirement as currently written is totally unnecessary.

Information Redacted

Please feel free to call me at 544-9348 (Office) or [REDACTED] (Cell) if you have any questions or need any additional information. Thanks in advance for any and all consideration given to these opinions.

Sincerely yours,



Thomas Kam
MBA, CPA & CMA
Assistant Professor of Accounting & Finance
Accounting Club Advisor
Hawaii Pacific University

Information Redacted



10/06/2011 12:13 PM

To

cc

bcc

Subject: Re: experience requirements in state accountancy laws

Laureen:

Thank you for reviewing the report from AICPA headquarters. One key point I noted: how many states allow a CPA who is practicing as CPA with a Permit to Practice to verify/attest to the experience of an accountant in industry or government who is supervised by someone who is not even a CPA? Perhaps this provision could be supported in the Hawaii CPA laws and rules. I am sure that many CPAs know of clients who have employees who are performing substantially equivalent duties who have majored in accounting, passed the CPA exam, completed 150 hours, could not secure a position in public accounting and have gained high level accounting and auditing experience as management accountants, internal auditors, government auditors, etc.

Meanwhile, further restrictions on entry into public accounting will continue to place some accounting undergraduate programs in jeopardy of survival due to decreasing willingness of students to embark on this long journey of five to six years of college and a year or two of focus on the CPA exam only to find that CPA firms prefer to hire experienced accountants rather than new graduates. These highly intelligent students can pick another business major and be done with college in 3 to 4 years, secure a job immediately which pays as well most smaller CPA firms, avoid having to deal with the additional complexities related to registering and passing an exam like the CPA exam, being required to perform clerical duties in many cases for a year or two such as preparing payroll and routine bookkeeping services and then being laid off in order to make room for another entry level employee.

We need to encourage students to enter the profession. Hawaii should be following the most recent version of the AICPA Uniform Accountancy Act and other leadership of the AICPA. One year of any kind of substantially equivalent experience has been the AICPA policy ever since an experience policy was reestablished in the 1980s. The original AICPA policy in the 1970s was no experience requirement for those who completed 150 semester hours, completed an accounting major and passed the CPA exam. This is still the policy in the second state to pass this policy, Florida. Hawaii was the first! Does the most recent AICPA UAA even mention that substantially equivalent experience should be verified by a supervisor who holds the CPA license and a current Permit to Practice? Please let me know if anyone can find this provision in the UAA.

Hawaii should be among the states which lead in implementing the policies of the AICPA, not a follower of provisions in some states' laws and rules which may not yet reflect the policies of the AICPA. Aloha, Mr. Baker and Mr. Gillette!

Please distribute this email to the Board members and others as my written testimony on this matter. I will see you at the hearing. Thank you for your consideration.

Aloha, Jack Karbens

10.07.11
added @ PH day.

- 1 (f) An applicant for initial issuance of a certificate under this Section shall show that
2 the applicant has had one year of experience. This experience shall include
3 providing any type of service or advice involving the use of accounting, attest,
4 compilation, management advisory, financial advisory, tax or consulting skills all of
5 which was verified by a licensee, meeting requirements prescribed by the Board by
6 rule. This experience would be acceptable if it was gained through employment in
7 government, industry, academia or public practice.
8
- 9 **COMMENT:** Before an applicant may obtain a certificate, the applicant must obtain actual
10 experience; however, that experience can be obtained in any area of employment involving the
11 use of accounting or business skills. In addition, experience should be acceptable whether it is
12 gained through employment in government, industry, academia or public practice. The
13 experience may be supervised by a non-licensee but must be verified by a licensee.



HSCPA
Hawaii Society of
Certified Public Accountants

10-07-11

added @ PH day.

Before the Board of Public Accountancy

Friday, October 7, 2011
8:30 a.m.

King Kalakaua Conference Room, First Floor

900 Fort Street

Suite 850

P.O. Box 1754

Honolulu, Hawaii 96806

Tel: (808) 537-9475

Fax: (808) 537-3520

E-mail: info@hscpa.org

Website: www.hscpa.org

In Support of the Proposed Amendment to Repeal HAR Subsection 16-71-21(e)

Chair Ueno, Vice Chair Tsukamoto, and Board Members:

The Board of Directors of the Hawaii Society of Certified Public Accountants (HSCPA) discussed the proposed amendment and a supermajority vote was received to support this measure.

Several HSCPA Board members commented that it was easy to misunderstand the real intent of the proposed amendment as written in the public hearing notice. The clarification / comparison should have been based on the requirement as prescribed in the rules today and the result of the repeal.

We strongly believe that a CPA applicant should be supervised by a licensed CPA required to obtain four hours of ethics CPE and defer to the authority of the Board of Public Accountancy in verifying that the experience obtained is professional, rather than repetitive ministerial tasks. This repeal would support today's environment for CPA services.

Thank you for the opportunity to testify.

Respectfully submitted,

Terri Fujii, CPA
President, HSCPA Board of Directors

TVQFSDFEFE UP DPSSFDU UZQPHSBQJ JDBM FSSPS
PO MBTU QBHF/



HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

Organized August 7, 1943
P.O. BOX 81043
HONOLULU, HAWAII 96839



October 5, 2011

Thomas T. Ueno, CPA, Chairperson, Kent K. Tsukamoto, CPA, Vice Chairperson,
and Members of the Board of Public Accountancy
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 329
Honolulu, Hawaii 96813

**Re: Testimony in opposition of proposed amendment to repeal
HAR Subsection 16-71-21(e) requiring a supervising CPA to hold a
permit to practice during the period of supervision of a new CPA
candidate.**

Dear Chairperson Ueno, Vice-Chairperson Tsukamoto, and Members of the Board:

The board of directors of the Hawaii Association of Public Accountants (HAPA) opposes the proposed amendment to repeal HAR Subsection 16-71-21(e) because the repeal would result in CPA license-only holders violating:

1. HRS §466-10 Prohibited Acts.
2. The ethical standards promulgated by the American Institute of Certified Public Accountants (AICPA), an integral part of the regulatory framework for CPAs in Hawaii under HRS §436B-19, including:
 - a. ET Section 53 - Article II The Public Interest; and
 - b. ET Section 56 - Article V - Due Care.
3. Common sense.

Furthermore, the repeal of HAR Subsection 16-71-21(e) would in itself violate sections II and IV of the Hawaii Small Business Bill of Rights.

Based on these resulting violations of Hawaii Revised Statutes, AICPA Ethical Standards, and Hawaii's Small Business Bill of Rights, HAPA urges the Board of Public Accountancy to reconsider its position and withdraw its proposed amendment to repeal HAR Subsection 16-71-21(e). The following presents HAPA's concerns in more detail.

HRS §466-10 Prohibited Acts:

HRS §466-10 defines the legal use of the titles "certified public accountant" and "CPA." As shown below, HRS §466-10 (1) clearly states that a person must hold both a current license and a current permit to practice in order to legally use the title or designation "certified public accountant" or "CPA."

"Except as otherwise provided in subsection (d) of this section, no person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, sign, card, or device likely to be confused with "certified public accountant" or "CPA" or tending to indicate that the person is a certified public accountant, unless the person holds a current license of certified public accountant issued under this chapter and a current permit to practice issued under this chapter (emphasis added);"

One of the core issues related to the use of professional titles or designations "certified public accountant" and "CPA" is the representation of special knowledge. This issue is specifically and clearly addressed in detail in HRS §466-10 (c) (1) below.

"No person shall sign or affix the person's name or any trade or assumed name used by the person in the person's profession or business with any wording indicating, suggesting, or implying that the person is an accountant or auditor, or with any wording indicating, suggesting, or implying that the person has special knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:

(A) Financial information, or

(B) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations, unless the person holds a current license and a current permit to practice issued under this chapter (emphasis added)."

In light of the above, HAPA believes that repealing HAR Subsection 16-71-21(e) and allowing a person without a current license and a current permit to practice to attest to the experience requirement of a new CPA candidate is a prohibited act that violates HRS §466-10 (c).

HRS §436B-19 and CPA Ethical Standards:

HRS §436B-19 (9) specifies the grounds for revocation, suspension, renewal, restoration, denial, or condition of licenses. It says:

"... in addition to any other acts or conditions provided by law, the licensing authority may refuse to renew, reinstate or restore or may deny, revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

- (9) Conduct or practice contrary to recognized standards of ethics for the licensed profession or vocation (emphasis added);"

Given that the AICPA Principles of the Code of Professional Conduct for CPAs, also known as the Code of Ethical (ET) Standards, are universally recognized as the standards of ethics for CPAs in Hawaii regardless of whether a Hawaii CPA license or permit holder is a member of the AICPA, any changes to the Hawaii Administrative Rules must not contradict or place a CPA license or permit holder in a position where he or she would violate any of the AICPA ET Standards. The repeal of HAR Subsection 16-71-21(e), however, would create precisely this contradiction/violation.

ET Section 53 Article II – The Public Interest:

ET §53.01 states:

"A distinguishing mark of a profession is acceptance of its responsibility to the public. The accounting profession's public consists of clients, credit grantors, governments, employers, investors, the business and financial community, and others who rely on the objectivity and integrity of certified public accountants to maintain the orderly functioning of commerce. This reliance imposes a public interest responsibility on certified public accountants. The public interest is defined as the collective well-being of the community of people and institutions the profession serves (emphasis added)."

ET §53.04 further states:

"All who accept membership in the American Institute of Certified Public Accountants commit themselves to honor the public trust. In return for the faith that the public reposes in them, members should seek continually to demonstrate their dedication to professional excellence."

With respect to the certification of work experience of CPA candidates, ET §53 obligates supervisors of CPA candidates to accept their responsibility to the public and seek continually to demonstrate their dedication to professional excellence. In other words, supervisors certifying the experience of CPA candidates have an obligation to the public to remain technically current themselves through continuing professional education. CPA permit holders meet this standard; CPA license holders do not.

ET Section 58 Article V – Due Care:

ET §58.02 states:

“Competence is derived from a synthesis of education and experience. It begins with a mastery of the common body of knowledge required for designation as certified public accountant. The maintenance of competence requires a commitment to learning and professional improvement that must continue throughout a member’s professional life. It is a member’s individual responsibility. In all engagements and in all responsibilities, each member should undertake to achieve a level of competence that will assure that the quality of the member’s services meets the high level of professional required by these Principles (emphasis added).”

A CPA licensee who fails to obtain continuing professional education (CPE) is not likely to be competent. Furthermore, that CPA licensee without CPE does not serve the public trust by attesting to the experience requirement of a CPA candidate under his or her supervision if the HRS requires “two years of professional experience in public accountancy practice or its equivalent in private industry and government (emphasis added).” The very nature of public accountancy practice demands that CPAs in public accountancy practice be current with continuing professional education by requiring CPAs in public practice to obtain a permit to practice. The permit to practice imposes on a CPA licensee the obligation to obtain 80 hours of professional continuing education every two years.

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The proposed change to HAR 16-71-21(e) violates two rights of local CPA firms as described in the Hawaii Small Business Bill of Rights. They are (underlined emphasis added below):

ii. The right to a clear, stable, and predictable regulatory and record keeping environment with easily accessible information and administrative rules in as clear and concise language as is practicable, including the posting of all proposed administrative rule changes on the Internet website of the office of the lieutenant governor.

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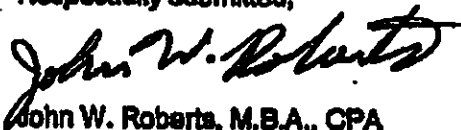
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Thank you for your consideration of this matter.

Respectfully submitted,



John W. Roberts, M.B.A., CPA
HAPA State President

FINTestimony

m: mailinglist@capitol.hawaii.gov
Sent: Tuesday, April 03, 2012 12:19 PM
To: FINTestimony
Cc: djr@teamdeluz.com
Subject: Testimony for SB2739 on 4/3/2012 5:00:00 PM

Testimony for FIN 4/3/2012 5:00:00 PM SB2739

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: David S,. De Luz, Jr.
Organization: Individual
E-mail: djr@teamdeluz.com
Submitted on: 4/3/2012

Comments:

I Apologize for submitting my testimony late and would greatly appreciate your consideration in support of SD2739 SD2, HD1.

Mahalo,
David S. De Luz, Jr.
VP
David S. Dwe Luz, Sr., Enterprises, Inc