

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE AND LABOR.

The meeting was called to order by Chairperson Al Lane at 9:07 a.m. on February 23, 1999 in Room 521-S of the Capitol.

All members were present except: Rep. Broderick Henderson - excused

Committee staff present: Bob Nugent, Revisor of Statutes
Jerry Donaldson, Legislative Research Department
Bev Adams, Committee Secretary

Conferees appearing before the committee: Paul Allen, Chair of the Board of Accountancy
T. C. Anderson, KS Society of CPA's
Jon Small, representing KPMG Peat Marwick LLP

Others attending: See attached list

A motion was made by Rep. Beggs to approve the minutes of February 18 and 19. Rep. Ruff seconded the motion. The minutes were approved as written.

Hearing on: HB 2353 - Certified public accountants; late renewals and reinstatement.

Paul Allen, Chair of the Board of Accountancy, explained that **HB 2353** has two main purposes: 1) to allow the board to require individuals who have not practiced public accountancy for more than one year, to obtain continuing professional education prior to being reinstated, and 2) to amend the disciplinary statute to incorporate the provisions of the Uniform Accountancy Act. Other changes are also incorporated into the bill. (See Attachment 1) He ended his testimony by answering questions from the committee.

Chairman Lane did not close the hearing on **HB 2353**, but opened the hearing on **HB 2354**, as T. C. Anderson requested that he be allowed to combine the two bills in his testimony.

Hearing on: HB 2354 - Certified public accountants; CPA designation.

Paul Allen, Chair of the Board of Accountancy, appeared as a proponent of the bill. It would assure those members of the public who seek the assistance of a certified public accountant in preparing their tax returns and providing financial planning, that the CPA has a permit to practice public accountancy. Other technical amendments are also included in the bill. (See Attachment 2)

T. C. Anderson, Kansas Society of Certified Public Accountant's, appeared before the committee to offer amendments on both **HB 2353** and **HB 2354**. He feels that the society's amendments to **HB 2354** are needed before the amendments to **HB 2353** will work. (See Attachment 3)

Many questions were asked of the conferees. Susan Somers, Executive Director, Board of Accountancy, assisted in answering some of the questions.

No others were present to testify for or against the bills and Chairman Lane closed the hearings on both bills, **HB 2353** and **HB 2354**.

Hearing on: HB 2446 - Accountants; use of title; misleading names prohibited.

Jonathan Small, representing KPMG Peat Marwick LLP, appeared to explain the purpose of the bill. Current Kansas law does not allow for the use of trade names. The current law reads that the name of a partnership or professional association is misleading if it fails to contain a personal name or names of individuals who are presently or have previously been partners, officers or shareholders. **House Bill 2446** would authorize Certified Public Accounting firms to modify or change their names to reflect a more recognizable, useful and

CONTINUATION SHEET

MINUTES OF THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE, Room 521-S Statehouse, at 9:07 a.m. on February 23, 1999.

easier trade name; e.g. KPMG Peat Marwick LLP to simply KPMG LLP (but not in a way to be misleading). KPMG is permitted to use the shortened name in most states. (See Attachment 4)

Paul Allen explained that the Board had met in January of this year and had decided to study the issue further to consider the ramifications of allowing the use of fictitious names. After the bill was proposed they discussed the matter with KPMG and concluded the Board would not oppose the bill if KPMG struck the last sentence in the amendment, beginning in line 38 and ending at line 40. (See Attachment 5)

T. C. Anderson appeared in support of the bill which would update the accountancy laws and rules and regulations as they relate to firm names. (See Attachment 6)

No others were present to testify for or against **HB 2446** and Chairman Lane closed the hearing.

The meeting was adjourned at 9:52 a.m.

The next scheduled meeting is February 24, 1999.

STATE OF KANSAS
BOARD OF ACCOUNTANCY

SUSAN L. SOMERS
EXECUTIVE DIRECTOR
TELEPHONE (785) 296-2162
FAX (785) 291-3501



LANDON STATE OFFICE BUILDING
900 S.W. JACKSON STREET, STE. 556
TOPEKA, KS 66612-1239

TESTIMONY

ON

HB 2353

By Paul S. Allen, CPA
Chair, Board of Accountancy
February 23, 1999

HOUSE BUSINESS, COMMERCE & LABOR COMM.
2-23-99
Attachment 1

H.B. 2353 has two purposes. First, to allow the Board to require individuals who have not practiced public accountancy for more than one year, to obtain continuing professional education prior to being reinstated, second to amend the disciplinary statute to incorporate the provisions of the Uniform Accountancy Act.

Currently, a CPA out of practice for more than a year, may apply for reinstatement and receive their permit without any continuing education as a prior condition to issuance of their permit. The Board is concerned about the professional competency of CPA's returning to public practice after an extended absence. They believe that a minimum of 40 hours of continuing professional education should be taken within the year preceding the application for reinstatement. Subection (g) of Section 1 provides that authority. Additionally, it establishes a reinstatement fee ceiling of \$225, consistent with the fees listed in K.S.A. 1-301.

The other changes to Section 1 are to strike some of the original transition language in K.S.A. 1-301 and to make the wording consistent with the amendment's intent.

Section 2 amends the disciplinary statute. Currently, the Board may take disciplinary action against a person's certificate and permit for a variety of acts. However, the Board has never had the authority to take action against a

person for violating an accountancy statute or its own regulations, except for willful violations of the rules of professional conduct.

Willful is a difficult standard to prove in an administrative hearing. It means the Board must establish that the violation was intentional or deliberate. Whereas, the Board agrees that whether an act is willful or not is appropriate to consider in determining the severity of the discipline, it does not believe that it should excuse away a violation of law. The Board believes that it is the responsibility of the licensed CPA to know the accountancy rules and regulations in Kansas.

We would also note, of the 19 professions regulated by Kansas that are subject to discipline by a regulatory board, only six require a violation to be willful. Additionally, the Uniform Accountancy Act, which is the model act supported by the American Institute of CPAs and the National Association of State Boards of Accountancy, does not require violations of rules and regulations to be willful. In fact, this item and all other items in Section 2, are changes taken from the Uniform Accountancy Act.

Section 2 also allows the Board to deny an application for a Kansas certificate or a permit if the person has committed one of the listed acts that would have merited disciplinary action.

Currently, if a person with a license from another state seeks a Kansas permit, the Board has no statutory authority to refuse if the person has a felony conviction or was convicted of a crime of dishonesty in another state or was disciplined in another state.

Finally, there is one technical point. The first sentence in Section 1 is missing some words. It should read "Permits to engage in the practice of public accountancy in this state..."

In closing, H.B. 2353, if enacted, will assist the Board in carrying out its responsibility to regulate the practice of public accountancy in order to protect the public. The Board requests that you consider it favorably.

* * * *

STATE OF KANSAS
BOARD OF ACCOUNTANCY

SUSAN L. SOMERS
EXECUTIVE DIRECTOR
TELEPHONE (785) 296-2162
FAX (785) 291-3501



LONDON STATE OFFICE BUILDING
900 S.W. JACKSON STREET, STE. 556
TOPEKA, KS 66612-1239

TESTIMONY

ON

HB 2354

By Paul S. Allen, CPA
Chair, Board of Accountancy
February 23, 1999

HOUSE BUSINESS, COMMERCE & LABOR COMM.
2-23-99
Attachment 2

I am here to request that this Committee review favorably HB 2354 which, if enacted, will assure those members of the public who seek the assistance of a certified public accountant in preparing their tax returns and providing financial planning, that the CPA has a permit to practice public accountancy.

Kansas is a "title" state, which means that the Board regulates the use of the CPA designation. In 1981, we became a two-tier state, meaning that a person who passes the CPA exam may obtain a certificate and use the CPA designation even though he or she may never practice. The idea was that if a person passed the CPA exam, he or she should be able to use the CPA designation as a credential. If a certificate holder intended to practice public accountancy, then they had to obtain a certain amount of public accounting experience before receiving a permit. A permit holder renews every 2 years and is required to obtain continuing professional education.

Surprisingly, the only statute that addresses when the CPA designation may be used in performing accounting services is K.S.A. 1-316, which allows only permit holders to use the designation when issuing opinions or reports on financial statements which is commonly known as the attest function. However, there is no statutory guidance regarding when the CPA designation may be used when performing non-attest functions

such as preparing tax returns and offering financial planning services.

This problem was brought to the attention of the Board when an attorney for a permit holder, whose permit had expired, advised the Board that his client didn't need a permit to prepare tax returns and that his client could hold himself out to the public as a CPA because the statutes allow a certificate holder to use the designation without restriction as long as the holder doesn't perform attest services.

Recently, the Board sought the opinion of the Attorney General on this issue. Attorney General Stovall concluded that the Board did not have the authority to prohibit certificate holders from using the CPA designation when preparing tax returns. In her opinion, the accountancy statutes give to certificate holders the unrestricted right to use the C.P.A. designation except when performing attest functions.

As I've indicated previously, the Board would like the authority to require those persons who want to use the CPA designation in conjunction with performing non-attest functions for the public to obtain a permit. This way the public will be assured that the CPA who is offering their services to the public has done more than simply pass an examination.

Turning to the legislation, Section 1 defines "the practice of public accountancy" as performing attest and non-attest services while using the CPA designation. HB 2354 does not purport to regulate those individuals who perform attest and non-attest functions and who do not hold a CPA certificate.

New Section 2 regulates the use of the CPA designation by allowing both permit holders and certificate holders to use the designation except that certificate holders who do not have permits may use the designation as a credential only. This latter provision codifies the intent of the 1981 amendments to the accountancy laws.

Section 3 amends K.S.A. 1-202 by giving the Board the authority to regulate the practice of public accountancy.

Section 4 amends K.S.A. 1-316(a) by prohibiting a person from practicing public accountancy unless the person holds a permit. Currently, this statute prohibits a person who doesn't have a permit from using the CPA designation only when performing attest functions.

K.S.A. 1-318 allows the Board to seek an injunction against those persons who are not authorized to use the CPA designation. Section 5 amends K.S.A. 1-319 by addressing the type of evidence that will be admissible in an injunction proceeding.

There are a few clean-up concerns. The title of this bill uses the word "accounts" rather than "accountants."

Also, when the Board was considering this legislation, it was in conjunction with an amendment to the firm registration statute. Since the Board is no longer proposing amendments to that statute, there is no need to define "firm" in subsection (e) of Section 1 and no need to amend subsection (c)(2) of Section 3.

Further, after consideration, we respectfully request that the deleted language on page 2, lines 19, 20 and 21, be restored. In addition, on lines 22 and 23, we request that chairperson be changed to "chair".

The Board requests favorable consideration of this bill.

* * * *



**Kansas Society of
Certified Public Accountants**

400 CROIX / P.O. BOX 5654 / TOPEKA, KANSAS 66605-0654 / 913-267-6460 / FAX 913-267-9278

Testimony on H.B.s 2353 and 2354

Presented to the

House Committee on Business, Commerce and Labor

by

T.C. Anderson
Executive Director
Kansas Society of Certified Public Accountants

February 23, 1999

HOUSE BUSINESS, COMMERCE & LABOR COMM.
2-23-99
Attachment 3



Kansas Society of Certified Public Accountants

400 CROIX / P.O. BOX 5654 / TOPEKA, KANSAS 66605-0654 / 913-267-6460 / FAX 913-267-9278

February 23, 1999

Chair Lane, members of the Committee:

I am T.C. Anderson, Executive Director of the 2,650 member Kansas Society of Certified Public Accountants.

With the Chair's permission I would like to address both HBs 2353 and 2354 since the two bills are intertwined as they relate to the amendments the Kansas Society would like to offer.

The leadership of the Kansas Society agreed last December to assist the Board of Accountancy in seeking legislation that would negate the effects of an Assistant Attorney General's belief that the Accountancy Statutes did not limit the use of the CPA designation to permit holders on both attest and nonattest services provided to the public.

As a bit of background, certificates as certified public accountants are issued to persons who pass the two-day uniform CPA examination. However, to earn the permit to practice one must also meet an experience requirement. Certificate holders may and do provide accounting services for the public. They just **can not** use the CPA designation in conjunction with those services, (or so we thought).

Attest services include audits and other financial reports. Nonattest services include preparation of tax returns, providing advice on tax matters, financial planning, management advisory services, consulting services and litigation support services.

Now, it was our understanding the Board would be seeking legislation that would bring its control over the practice of public accountancy back to where we all thought it was prior to the comments by the Assistant Attorney General...that being only permit holding certified public accountants could use the CPA designation when providing attest and nonattest services to the public.

The Kansas Society offered input on that legislative proposal that has become HB 2354, however, it was not accorded an opportunity to review the final proposal before a request was made to this Committee by the State Board of Accountancy to introduce the legislation. In addition, the Kansas Society and the Board of Accountancy did not jointly discuss the contents of HB 2353.

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Thus, I appear before you today to offer amendments to both bills. In our opinion, HB 2354 would reserve the use of the CPA designation on both attest and nonattest services performed for the public to permit holding CPAs.

Unfortunately, the bill draft that has become HB 2354 contains a major flaw that if enacted would limit the Board's authority to regulate only permit holders **who use the CPA designation in conjunction with providing attest and nonattest services for the public**. This language, which begins on page 1, line 42 and runs through page 2, line 5, would appear to remove certificate holders and permit holders who choose not to use the CPA designation when providing the services from the purview of the Board.

As reflected on the attached balloon, this situation can be corrected by changing the sentence that begins at the end of line 2 on page 2 to read, "**Performing or offering to perform accounting services, as defined above, for the public** by persons **who hold neither a Kansas certificate nor** a Kansas permit to practice, including public accountants, is not prohibited or regulated by the provisions of this act.

The adoption of this amendment by the Committee would lay the ground work for our proposed amendments to HB 2353 that would allow the Board of Accountancy to continue to discipline both certificate holders and permit holders who commit the same acts, just as it can today. **The amendments will not lessen in any manner the Board of Accountancy's current authority over the CPAs it regulates.**

The first amendment to HB 2353, contained in our balloon, occurs on page 3, line 28. By changing the phrase "the practice of public accountancy" to "**providing accounting services for the public**", the Board would continue to be able to discipline both certificate holders and permit holders who are dishonest, commit fraud or who are grossly negligent in performing accounting services for the public. That's the authority it has today.

The amendment to line 29 would allow the Board to discipline both certificate and permit holders, not just permit holders, who fail to file their own income tax returns. The failure to file is a new ground for discipline.

The amendment to line 31 would continue the "willful" standard of conduct past Legislatures have accorded both certificate and permit holders. The proposed language in item (6) would expand the Board's authority from a rule of professional conduct which is contained in the rules and regulations (**see line 10 above**) to accountancy statutes and all rules and regulations.

Page 3
HBs 2353 and 2354

The amendment to line 37 would strike the phrase, "while holding a permit." This would expand the Board's authority over the performance of a fraudulent act to both certificate and permit holders. This is a new cause for discipline.

The amendments to lines 41 and 42 would expand the Board's authority to both certificate and permit holders as to conduct that would reflect adversely in performing accounting services for the public. This, too, is a new cause for discipline.

Your favorable consideration of these amendments to both HBs 2353 and 2354 will be greatly appreciated.

Chair Lane, I'll stand for questions.

3-5

1 services for the public while using the designation "certified public ac-
2 countant" or "C.P.A." in conjunction with such services. ~~The practice of~~
3 ~~public accountancy by persons not required to hold a Kansas permit to~~
4 practice, including public accountants, is not prohibited or regulated by
5 the provisions of this act.

Performing or offering to perform accounting services,
as defined above, for the public

who hold neither a Kansas certificate nor

6 New Sec. 2. (a) A person who has been granted a permit to practice
7 public accountancy by the board may use the designation "certified public
8 accountant" or "C.P.A."

9 (b) A person who has been granted a Kansas certificate but who does
10 not hold a permit may use the designation, "certified public accountant"
11 or "C.P.A." as a credential evidencing successful completion of the C.P.A.
12 examination or in conjunction with such person's employment in industry,
13 government or education, but may not use the designation in conjunction
14 with performing or offering to perform accounting services for the public.

15 Sec. 3. K.S.A. 1998 Supp. 1-202 is hereby amended to read as fol-
16 lows: 1-202. (a) Each year the board shall meet and organize by electing
17 a ~~chairperson~~ *chair* and a ~~vice-chairperson~~ *vice-chair* from its member-
18 ship. The board shall appoint a secretary, who need not be a member of
19 the board. ~~The board may adopt such rules and regulations as it may~~
20 ~~deem necessary for the proper administration of its duties and the ear-~~
21 ~~rying out of the purposes of this act.~~ The board shall meet at the call of
22 the chairperson but not less than twice each year and shall have a seal.
23 The chairperson and the secretary of the board shall have the power to
24 administer oaths.

25 (b) The board shall keep records of all proceedings and actions by
26 and before it. In any proceedings in court, civil or criminal, arising out of
27 or founded upon any provisions of this act, copies of such records which
28 are certified as correct by the secretary of the board under the seal of the
29 board shall be admissible in evidence and shall be prima facie evidence
30 of the correctness of the contents thereof.

31 (c) The board, from time to time, shall: (1) ~~Adopt, amend, and revoke~~
32 ~~and amend any rules and regulations necessary to regulate the practice~~
33 ~~of public accountancy, including rules of professional conduct;~~

34 (2) ~~provide for certification and registration and issue permits to prac-~~
35 ~~tice in accordance with the provisions of this act the issuance of certifi-~~
36 ~~cates, permits to practice and firm registrations;~~

37 (3) keep accounts of its receipts and disbursements;

38 (4) keep a register of Kansas certificates issued by the board;

39 (5) revoke, suspend and reinstate certificates, registrations and
40 permits;

41 (6) initiate proceedings and, hold hearings and do all things necessary
42 to ~~carry out the intent of this act~~ *regulate the practice of public*
43 *accountancy.*

3-5

3-6

1 of the following causes:

2 (1) Fraud or deceit in obtaining a Kansas certificate; in obtaining
3 registration with the board under any law of this state; or in obtaining a
4 permit to practice as a certified public accountant; or renewal thereof;
5 under K.S.A. 1-310 and amendments thereto;

6 (2) dishonesty, fraud or gross negligence in practice as a public
7 accountant;

8 (3) violation of any of the provisions of subpart (2)(B) of subsection
9 (b) of K.S.A. 1-302b or 1-316 and amendments thereto;

10 (4) willful violation of a rule of professional conduct promulgated by
11 the board under the authority granted by K.S.A. 1-202; and amendments
12 thereto;

13 (5) conviction of a felony under the laws of any state or of the United
14 States;

15 (6) conviction of any crime, an essential element of which is dishon-
16 esty or fraud, under the laws of any state or of the United States;

17 (7) cancellation, revocation, suspension or refusal to renew the au-
18 thority to practice as a certified public accountant or a public accountant
19 in any state or foreign country; or

20 (8) failure to comply with the quality review program required by
21 K.S.A. 1-310; and amendments thereto.

22 (1) *Fraud or deceit in obtaining a certificate, permit or registration;*

23 (2) *cancellation, revocation, suspension or refusal to renew a person's*
24 *authority to practice for disciplinary reasons in any other jurisdiction for*
25 *any cause;*

26 (3) *revocation or suspension of the right to practice before any state*
27 *or federal agency;*

28 (4) *dishonesty, fraud, or gross negligence in the practice of public*
29 *accountancy or in the filing or failure to file the permit holder's own*
30 *income tax returns;*

31 (5) *violation of any provision of the accountancy statutes or rules and*
32 *regulations of the board;*

33 (6) *conviction of any felony, or of any crime an element of which is*
34 *dishonesty or fraud, under the laws of the United States, of Kansas or of*
35 *any other state, if the acts involved would have constituted a crime under*
36 *the laws of Kansas;*

37 (7) *performance of any fraudulent act while holding a permit;*

38 (8) *making any false or misleading statement or verification, in sup-*
39 *port of an application for a certificate, registration or permit filed by*
40 *another;*

41 (9) *any conduct reflecting adversely upon the permit holder's fitness*
42 *to practice public accountancy.*

43 (b) All administrative proceedings pursuant to this section shall be

providing accounting services for the public

certificate or

willful

(omit)

certificate or

perform accounting services for the public.

3-6

LAW OFFICES

JONATHAN P. SMALL, CHARTERED

800 S.W. Jackson, Suite 808

Topeka, Kansas 66612-2220

Voice - 785/234-3686

Fax - 785/234-3687

February 23, 1999

Chairman Lane and Members of the
House Business, Commerce and Labor Committee

Re: 1999 House Bill 2446

From: Jonathan P. Small
Representing KPMG Peat Marwick LLP
Certified Public Accountants

KPMG Peat Marwick LLP is a professional association of certified public accountants authorized to practice in Kansas. Its principal office here in Kansas is in Wichita and it is known internationally (outside Kansas) by its trade name KPMG.

HB 2446 - Purpose: Amends K.S.A. 1-316 to permit Certified Public Accounting firms to use trade names that are not false or misleading.

Current Kansas law: Current Kansas regulations provide that the name of a partnership or professional association is misleading if it fails to contain a personal name or names of individuals who are presently or have previously been partners, officers or shareholders. K.A.R. 74-5-406(c)(6)

Objective: Statutorily authorize Certified Public Accounting firms to modify or change their names to reflect a more recognizable, useful and easier trade name; *e.g.* KPMG Peat Marwick LLP to simply KPMG LLP (but not in a way to be misleading).

Supporting Argument:

- Original purpose of the Kansas Rule was to insure individual practitioners took personal responsibility for their work, and that the public had access to accurate information about whom they might engage.
- The rationale for the Rule has eroded over time - many firm names include names of partners no longer living (Arthur Andersen, Deloitte & Touche, Ernst & Young, etc.); such names no longer convey useful commercial information, nor reinforce practitioner responsibility or contain information about the firm's current membership.
- Requiring an accounting firm to retain in its trade name the last name of a deceased partner conveys no useful information about a firm of the scope and size of larger Certified Public Accounting firms, such as KPMG.
- Larger Certified Public Accounting firms, such as KPMG, can be found everywhere, since they must be licensed as a foreign limited liability partnership and obtain a firm permit in every state in which they offer services.

- Most states and the American Institute of CPAs (AICPA) no longer require firms to include the last name of current or former partners, but do prohibit false or misleading names.
- Kansas can serve its interest through a lesser restriction by precluding only those firm names that are in fact false or misleading;
- The Federal Trade Commission's (FTC) rulings in this area are compelling: In a 1990 Consent Order with the AICPA, the FTC concluded that a prohibition of fictitious trade names unreasonably restrained competition because it increased difficulty of establishing easily identifiable firm names and precluded the use of efficiently conveyed useful commercial information.
- The FTC also stated that fictitious names "convey no less information to consumers about the identity of the accountant who will actually provide services than do firm names that contain names of deceased partners (Arthur Andersen, etc.)."
- The FTC has concluded that fictitious names are not inherently deceptive, therefore there is no state or substantial interest served by Kansas' fictitious name regulation.
- The U.S. Supreme Court has also ruled on this matter and has recognized that trade names are a form of commercial speech entitled to constitutional protection.
- KAR 74-5-406(c)(6) may violate the First Amendment and deprive Certified Public Accounting firms, such as KPMG, of their right to engage in commercial expression - to utilize a trade name of choice.
- The Kansas Rule may also be an unconstitutional restraint on interstate commerce, prohibited by the commerce clause of the U.S. Constitution, under which a state statute will be declared invalid if the burden imposed on commerce is clearly excessive when weighed against the local benefits.
- The National Association of State Boards of Accountancy and the American Institute of CPAs have, jointly, issued a revised Uniform Accountancy Act, a model law for use by State Boards of Accountancy, which prohibits the use of names that are false or misleading, but does not prohibit the use of trade names or require the inclusion of names of current or previous owners in a firm name [Section 14(i)].
- Any state interest in protecting the public is hindered by enforcing the Regulation, since KPMG is permitted to use the shortened name in most states, potentially resulting in greater confusion for consumers in Kansas.

9 AN ACT concerning accountancy; prohibiting certain acts in the practice
10 thereof; amending K.S.A. 1998 Supp. 1-316 and repealing the existing
11 section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 1998 Supp. 1-316 is hereby amended to read as
15 follows: 1-316. (a) It is unlawful for any person, except the holder of a
16 valid permit issued under K.S.A. 1-310, and amendments thereto, or any
17 firm, unless it is registered under the provisions of K.S.A. 1-308, and
18 amendments thereto, to affix or cause to be affixed the signature of any
19 such person or firm to any accounting or financial statement, ~~to any opin-~~
20 ~~ion on,~~ report ~~on~~ or certificate to any accounting or financial statement
21 with any word indicating that such person or firm, or its members, officers
22 or employees, are certified public accountants.

23 (b) It is unlawful for any person, except the holder of a valid Kansas
24 certificate, to use or assume the title "certified public accountant" or to
25 use the abbreviation "C.P.A." or any other title, designation, words, let-
26 ters, abbreviation, sign, card, or device likely to be confused with "certi-
27 fied public accountant."

28 (c) *Except as provided by this subsection, no person holding a permit*
29 *or firm holding a registration under this act shall use a professional or*
30 *firm name or designation that is misleading as to: (1) The legal form of*
31 *the firm; (2) the persons who are partners, officers, members, managers*
32 *or shareholders of the firm; or (3) any other matter. The names of one or*
33 *more former partners, members or shareholders may be included in the*
34 *name of a firm or its successor. The use of a fictitious name by a firm is*
35 *permissible if the fictitious name is registered with the board and is not*
36 *otherwise misleading. The name of a firm may not include the name of*
37 *an individual who is neither a present nor a past partner, member or*
38 *shareholder of the firm or its predecessor. ~~The name of a firm may not~~*
39 ~~*include the name of an individual who is not a certified public accountant*~~
40 ~~*if the title "CPA" is included in the firm name.*~~

} proposed amendment

41 (c) (d) Any person who violates any provision of this section shall be
42 guilty of a misdemeanor, and upon conviction thereof, shall be subject to
43 a fine of not more than \$500, or to imprisonment for not more than one

HB 2446

1 year, or by both such fine and imprisonment.
2 Sec. 2. K.S.A. 1998 Supp. 1-316 is hereby repealed.
3 Sec. 3. This act shall take effect and be in force from and after its
4 publication in the statute book.

STATE OF KANSAS
BOARD OF ACCOUNTANCY

SUSAN L. SOMERS
EXECUTIVE DIRECTOR
TELEPHONE (785) 296-2162
FAX (785) 291-3501



LANDON STATE OFFICE BUILDING
900 S.W. JACKSON STREET, STE. 556
TOPEKA, KS 66612-1239

TESTIMONY

ON

HB 2446

By Paul S. Allen, CPA
Chair, Board of Accountancy
February 23, 1999

HOUSE BUSINESS, COMMERCE & LABOR COMM.
2-23-99
Attachment 5

The Board's current regulations consider a firm name to be misleading if it doesn't contain the personal name of a present or former partner, officer, or shareholder. KPMG approached the Board a few months ago to request that we reconsider the regulation and possibly revoke it or exempt KPMG. At our Board meeting in January of this year, we decided to study the issue further to consider the ramifications of allowing the use of fictitious names.

When this bill was proposed, we discussed the matter with KPMG and concluded that the Board would not oppose the bill if KPMG struck the last sentence in the amendment, beginning in line 38 and ending at line 40. That sentence would allow a firm name to contain the name of a person who is not a CPA as long as the firm didn't use the CPA designation in its firm name.

The Board believes that this could potentially open the door to the non-CPA ownership of CPA firms, which this Board presently opposes and which is currently prohibited. Currently, in order to practice public accountancy, a firm with an office in Kansas must register with the Board. A CPA firm cannot register unless all of its partners, owners, or shareholders are CPAs. Many firms, like KPMG, don't use the CPA designation in their firm names. We believe that if this sentence is not struck, an argument

could be made that this amendment would not prohibit a CPA firm from having owners who are non-CPAs.

Non-CPA ownership of CPA firms is a controversial issue, and as such, the Board needs to study this issue in depth with all interested and affected parties being heard before endorsing its possible presentation to the legislature.

Thank you.

* * * *



**Kansas Society of
Certified Public Accountants**

400 CROIX / P.O. BOX 5654 / TOPEKA, KANSAS 66605-0654 / 913-267-6460 / FAX 913-267-9278

Testimony on H.B. 2446

Presented to the

House Committee on Business, Commerce and Labor

by

T.C. Anderson
Executive Director
Kansas Society of Certified Public Accountants

February 23, 1999

HOUSE BUSINESS, COMMERCE & LABOR COMM.
2-23-99
Attachment 6



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February 23, 1999

Chair Lane, members of the Committee:

I am T.C. Anderson, Executive Director of the Kansas Society of Certified Public Accountants.

I appear before you today in support of HB 2446, which if enacted would update the accountancy law and rules and regulations as they relate to firm names.

A review of the Topeka Yellow Pages yesterday revealed the following professional business names that did not include the name or names of their owners: Architect One PA; Bankruptcy Law Office; Gage Center Dental Group PA; Alpha Engineering; and Lincoln Center OB/GYN, PA.

The language in HB 2446 comes directly from the new Uniform Accountancy Act which is a joint effort of the National Association of State Boards of Accountancy and the American Institute of CPAs. The act is designed to bring state accountancy statutes into the 21st century and to deal with the now global practice of accountancy by CPA firms.

The Kansas Society is hopeful that the State Board of Accountancy will participate in discussions this summer and fall that will lead to the introduction of legislation next session that will embrace additional key components of the Uniform Accountancy Act and provide a much needed overhaul of our current accountancy statutes.

HB 2446 is a good beginning.

Chair Lane, I'll be happy to stand for questions.

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