11-14-1982

Address by Philip B. Chenok Before Joint AICPA/NASBA Conference on State Regulation of the Profession

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AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

BEFORE

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ON STATE REGULATION OF THE PROFESSION

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I would like to add my welcome to this group. I am delighted to be here. While those of us here represent a number of different organizations with perhaps differing objectives, we are all concerned over the growing threat to the accounting profession's traditional regulatory system.

The organizations that are sponsoring this program, the AICPA and NASBA, are committed to the concept of effective regulation of CPAs and licenced PAs in the public interest. But both organizations recognize that while they can serve as catalysts, the real job must be done at the state level; state societies and state boards must find new ways to work together to meet the challenges of the 80's.

As a keynote speaker, some may expect me to view with great alarm the current threats to effective regulation of the profession -- as is suggested in the description of this session. And there is no question that threats exist! Alternatively, I could point with pride at past accomplishments, but a keynote address is supposed to set forth the main line of policy to be considered at a conference. It seems to me that for this group the main line of policy should be mutual cooperation.

While we find ourselves faced with a variety of attacks against state regulation, these attacks represent problems that must be faced. And one person's problem is

another's opportunity. Defined in that manner, we are also faced with great opportunities -- we have never had so many opportunities. Opportunities to work together and demonstrate that the public interest is best served through an effective partnership involving self-regulation on the one hand and governmental oversight on the other.

In the 1980 Report of the Special Committee on Regulation of the Profession, a joint AICPA-NASBA committee, known as the Armstrong Committee, self-regulation of the profession was described quite effectively:

> "In its pure sense, self-regulation means regulation of the profession alone, and without governmental interaction. Action by a state board of accountancy, even if composed entirely of CPAs, is not technically self-regulation since the authority of the CPAs acting as the board is state authority. However, our view is that self-regulation does not preclude also being regulated by government. Self-regulation can be a matter of degree, limited to certain aspects of regulation or involving cooperative ventures with government. Indeed, it is unrealistic to believe the profession could ever revert to the total self-regulation it experienced in its early years. Thus, the issue is not total, pure self-regulation or none; but rather, how best to achieve the best regulation mix of the private and public sectors in the public interest."

In the brief time available to me this morning, I will try to call your attention to a number of the opportunities that exist for strengthening the mix of public sector and private sector initiatives for regulation. In so doing, it will be necessary to hold up to the light some programs that are not working well. It is only through frank and honest evaluations of past performance, that we can suggest a positive response to maximize the effectiveness of our programs and assure adequate state regulation of the profession in the future.

Before exploring possibilities for a more effective regulatory/private sector mix, let me summarize the situation concerning the loss of independence and authority of state boards and moves toward greater centralization of the licensing function. These moves represent:

- Serious threats to the continuation of state boards of accountancy as viable entities to exercise the state's delegated authority to license, discipline and regulate the practice of public accounting.
- Budgetary constrictions, adverse legal decisions, bureaucratic intrusions and unfavorable sunset review recommendations have weakened the state boards.

- There has been at least in some states a loss of ability to administer the Uniform CPA Examination.
- Oversight of the practice of public accounting including investigations and discipline is quite mixed both at the state board level and within the profession.

In the next session, we will be talking further about the threat of centralization and what state boards and state societies can do to respond. Leighton Platt, the immediate past president of NASBA, warned in his recent NASBA address that "Centralization is politically attractive ...drawing support from...bureaucrats looking for more power, consumer groups concerned with the anti-competitive impact of licensing and a de-regulatory climate...." Sandy Suran told the same meeting that "The Sunset review is not necessarily something to be feared; instead, it can be viewed as an opportunity to accomplish beneficial change." She pointed out that "...the state societies have the tools and resources to assist /state boards/ in accomplishing legislative changes."

There is one other dimension that must be recognized as we discuss regulation of the profession. If regulation fails at the state level, the Federal government may make further intrusions on the rights of states to regulate the

practice of public accounting. To some extent this already had happened. The FTC and the Justice Department have affected the competitive practices of licensees and the ability of state boards to regulate in this area. Congress and the SEC have caused the AICPA to establish the most comprehensive program of self-regulation ever taken on by a private sector body in the history of this country: the Division for CPA Firms with its two sections -- one for SEC practice and the other for private companies. Pivotal to this program is peer review of a firm's quality control policies and procedures.

I would be less than honest if I didn't tell you that there is cause for further concern. The Congress once again has expressed interest in the underlying causes of current business failings. Alleged wrongdoings at Citicorp and the failure of Penn Square Bank are both the subject of current Congressional hearings. Lawsuits against accountants also are on the rise. It is fair to say that the effectiveness of our self-regulatory efforts are being challenged. Regulation at the Federal level, even if only directed at SEC registrants, would only serve to further erode state regulation.

Our response to any such challenge will point to the effectiveness of our existing programs. There are

four major programs we can point to:

1. Application of a uniform CPA examination designed to test a candidate's ability to serve the public having completed a satisfactory level of training.
2. The establishment of CPE requirements by many states and the AICPA's Division for CPA Firms as a means of assuring that licensees do not become professionally obsolete.
3. A variety of programs which, to a greater or lesser extent, are designed to determine that firms are maintaining quality practices. I have in mind peer review as developed within the Division for CPA Firms and the various forms of positive enforcement programs underway by many of the states.
4. Finally, effective ethics enforcement at the state and national levels to demonstrate that our profession and those that regulate us will not tolerate substandard performance by those that serve the public.

I expect that one way or another we will touch on all aspects of these programs in these two days. In the final analysis, state regulation of the profession can only be preserved if it is effective regulation and if it has the support of those being regulated. In other words, while we must examine causes, discuss cooperation and political action, in my judgment, effective state regulation of the profession can be preserved only if we are able to demonstrate that there is effective cooperative regulation by state boards and self-regulation within the profession.

At this point, I would have to say our record is mixed. Let's spend a few minutes examining each of these programs. In terms of entrance into the profession, the goal of 150 hours of academic education as a prerequisite for the examination and licensing is far from a reality. Our friends in Florida, Utah and Hawaii are rightfully asking the rest of us to stand up and be counted. We are anxiously awaiting the report of the independent Commission on Accounting Education as a basis for moving forward with a positive program.

We also have found that several states are no longer able to administer the CPA examination on their own and have issued requests for proposals to outside groups for such administration. To maintain the integrity of the examination, NASBA and the Institute are merging our efforts to organize a joint venture to administer the examination.

CPE also is being challenged as a cost effective means of maintaining professional proficiency; empirical evidence has not been developed to support the notion that CPE is valuable. The "proof of the pudding" argument has been advanced by those who would rely on practice surveillance as the sole means of determining current competence. The public, they argue, should not have to pay for both CPE and practice surveillance. We therefore must explore ways to demontrate the effectiveness of CPE and of practice surveillance.

As to surveillance of practice through peer review or positive enforcement, in our effort to serve the public, we may unwittingly be developing a competitive attitude that could undermine all such programs. A number of states are planning programs that randomly select licensees' work products for review as a requirement for renewal of licenses. Voluntary report review programs also could compete with the Division for CPA Firms and peer review. In each of these areas, we must search for new ways to cooperate if these programs are to be successful.

Lastly, we have been studying the effectiveness of the joint AICPA-state society ethics enforcement program. While the program has worked well in some states, it has not in others. If we are to accomplish greater uniformity in ethics enforcement, state societies must willingly

undertake and effectively discharge their responsibilities under this program. Without such active participation, there is little purpose in expanding the scope of the program to include state boards, as was suggested in the Armstrong Report. For our part, we will be re-evaluating the JEEP program and will be considering the options available for strengthening it, including the possibility of withdrawal in the event individual states elect not to support strong and effective ethics enforcement. And in those states where the JEEP program is working effectively, the state society and the Institute must not miss the opportunity to interact with NASBA.

Before surrendering the podium to my friend Bob Block, there is one other matter that I would like to bring to your attention -- in the hope that it will be further discussed during this conference, that is, the existence of competing AICPA/NASBA model bills. In his address before NASBA's 75th annual meeting, AICPA chairman Rholan Larson put the situation into sharp focus. He said:

> "Some state boards are endeavoring to have the NASBA model act enacted, and state societies argue against its enactment in favor of the AICPA model bill. The result is near anarchy on some of the legislative points. CPAs, supposedly of the same profession, argue from

opposing positions and legislators understandably refuse to choose between them. The result is no legislative action and much lost effort."

Rholan Larson proposed the formation of an AICPA/NASBA special committee to study and report on the feasibility of a jointly-issued model bill. He suggested that we reach agreement on legislative policies and work to reconcile differences. Surely this is our most important priority in demonstrating that together we have the ability to regulate the profession.

In closing, let me repeat the theme I began with -- cooperation, cooperation, cooperation. We have a unique opportunity in this forum to explore those trends and developments that are posing threats to the profession's traditional system of regulation. More importantly, we must explore cooperative efforts among state societies and state boards in conjunction with NASBA and the AICPA to strengthen that system and to strengthen the role of state boards in the process. Education and examination, practice surveillance and ethics enforcement are all matters that require careful attention -- not to mention a harmonized model bill.

I sincerely hope that in future years we can look back on this conference as a watershed -- a crucial

turning point -- during which we identified opportunities and initiated cooperative programs in the public interest. Rholan Larson said it much better than I could in his closing remarks at the NASBA meeting last September:

> "Let's put aside organizational pride.
> Let's put aside jurisdictional barriers.
> Let's put aside unfounded feelings of mistrust.
> Let's move forward.
> Let's do it together for the good of the profession -- but more importantly, for the good of the public."