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CONTINUING EDUCATION AND THE PENSION ACTUARY

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o This session will present the proposed continuing education requirements put forth by the Joint Board for the Enrollment of Actuaries, followed by an open question and answer period.

MR. IRWIN I. KENT: I am Vice President of the Alexander & Alexander Consulting Group. Joining me is Leslie E. Shapiro, Executive Director, Joint Board for the Enrollment of Actuaries.

Before I get started, I've been asked to make an announcement: The Society of Actuaries has applied to the Joint Board for retroactive credit for this meeting. In order to verify attendance at this session, you are to fill out a computerized form and sign it. If you have anonymous comments, please fill out another evaluation form and leave it unsigned. Since you must attend the entire session to receive credit, evaluations returned before the end of the session will not be tabulated.

We all recognize that in our profession continuing education is vital to those of us who are practicing as actuaries. What form it has taken up until this point has been an individual thing for each of us. Three years ago the Conference of Actuaries in Public Practice came out with a first formal tallying of continuing education credits, and the latest tally of our *Yearbook* indicated that over 50% of the members are responding to this tally and getting an asterisk assigned to their name in the *Yearbook*. After that, the Academy established a task force which came out with a report that was a discussion draft. Their report on continuing education recognition recommended the adoption by the Academy of such a recognition program. While the Society has no formal continuing education recognition program other than the grades given for the passage of exams, the continuing education programs of the Society are ongoing. We all get flooded with flyers so we know that that's foremost in their thinking.

Years ago the IRS came out with continuing education recognition for enrolled agents. The *BNA Reporter* erroneously reported that those rules were going to apply to EAs.

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For those of us who are involved in setting up the annual meeting for EAs in Washington, we recall that we quickly reviewed our program, the timing of sessions to make them comply with what we read into that annual regulation. Subsequently, we learned, of course, that the Bureau of National Affairs (BNA) comment was in error and hoped that IRS would continue to let the actuarial organizations handle continuing education without some formal IRS program. As we all know, as of July 1, 1988 we have to keep track of continuing education credit to satisfy the Joint Board regulations. The deadline for comments on those proposed regulations is April 5, 1988, and last week a series of comments were received by Les. He was kind enough to send copies to me, and I read 48 or 50 of them. They were signed by about 200 EAs because there were a number of multiple signatures attached to some of the comments. Les has had an opportunity to see some of these comments, and hopefully we'll get responses to those he has reviewed to date.

A quick and dirty summary of the rules are as follows: There's a three-year enrollment renewal cycle of our EA status starting October 1, 1989. Those now enrolled have to apply for reenrollment some time between July 1 and August 15, 1989. There is a 36-hour credit requirement in a three-year enrollment cycle, a minimum of 8 hours in each 12-month period.

Of the 36, 18 must be core, and the remainder can be noncore credits related to pension actuarial matters. What happens if you fail to renew? What constitutes a formal program? What constitutes an individual study program and credits for publishing articles? I would be interested to find out from Les when we finish whether this session is a core or a noncore program.

Now, without further ado, I would like to turn the floor over to Les. After his presentation we plan to open the session up to questions.

MR. LESLIE S. SHAPIRO: Wynn and I have the challenge of holding your interest on a subject which, while important, but perhaps somewhat unusual, does not have the same appeal as other subjects I've noticed in the Society meeting program such as alternate delivery systems, manufacturing alternatives, and 1987 Group Long Term Disability (GLTD) diskettes. However, I hope we can engage in a dialogue that will be both productive and perhaps even a little fun.

The subject is continuing professional education for EAs. On January 4, 1988, the Joint Board for the Enrollment of Actuaries published a notice of a proposed rule that would mandate as a condition of continued standing as an EA, the satisfaction of continuing professional education requirements as delineated in the proposal. The project, which has been lurking in the wings for quite some time, was held in abeyance in order for two or three things to occur. One was to involve the EA community in the endeavor. To help assure that a successful program could be proposed for EAs, the Joint Board enlisted comments from EAs in actuarial publications, and entered into dialogues on the subject with EAs at meetings and conventions. Further, a task force to study the subject was established by the American Society of Pension Actuaries, the Society of Actuaries, the Conference of Actuaries in Public Practice and the American Academy of Actuaries. A full report was furnished the Joint Board. The suggestions, comments and positions received through these vehicles were fully considered and to a great extent are blended into the proposal. I might add that the comments received from EAs and the dialogues at actuaries' meetings supported a continuing education program. The task force report may be

described as being split down the middle -- four who wish to retain the status quo and four who endorsed a continuing education program of one form or another.

My principal responsibility with the government is to serve as Director of Practice with the Treasury Department, administering and enforcing the regulations governing practice before the Treasury with special emphasis on practice before the IRS. In this connection, EAs are subject to two sets of regulations governing their status as such -- the standards for the performance of actuarial services under ERISA and the basis for disciplinary action. The procedures to be followed in taking those actions are found in regulations contained in Title 20 of the Code of Federal Regulations.

The regulations contained in Title 31 of the Code of Federal Regulations govern practice before the IRS. Those regulations have been printed in pamphlet form and are described partly by the tax practice in your community as Treasury Department Circular No. 230.

On January 24, 1979 those regulations were amended to include EAs who practice before the IRS, a practice that is limited to matters concerning ERISA and the regulations thereunder. On January 22, 1986 an amendment to Circular 230 was adopted as a final rule that mandated continuing professional education for those enrolled to practice before the IRS. The regulations contained in the amendment do not apply to EAs regardless of BNA's report. It is recognized that a viable continuing professional education program for EAs, due to the unique nature of actuarial services, should differ from those regulations governing others who are enrolled to practice before the IRS. Further, the authorization of EAs to practice before the IRS is an adjunct to their eligibility to perform actuarial services under ERISA. It therefore was believed more appropriate from the beginning for EAs to be addressed by the Joint Board. This program relating to continuing education for enrolled agents, those who practice before the IRS, has been concluded, and its success both from conceptual and administrative viewpoints has been recognized by both the Treasury Department and by the enrolled agent community. Consequently, it was believed appropriate to give attention to a parallel continuing education program for EAs.

The third endeavor was the Joint Board's consideration of a continuing education program that would be best suited for EAs. After securing clearance at the IRS, the office of the Secretary of the Treasury, and the office of the Secretary of Labor, a notice of proposed rule making was published in the *Federal Register* in January 1988.

A proposal first addresses renewal of enrollments. Under the proposal all EAs would be required to renew their enrollment every three years in order to maintain their good standing as such. This modifies the five-year renewal period contained in the current regulations. It is believed that a three-year renewal cycle is a more manageable time period to administer a renewal continuing education program for EAs to retain their records and to monitor the program. In addition, the proposal would place all EAs on a uniform renewal cycle. This also deviates from the current regulations which require renewal on the anniversary date of an individual's enrollment. We believe this modification will achieve greater efficiency in the administration of the renewal of the continuing education program as well. If you further envision a start-up period, a start-up renewal would be a condition for active enrollment beginning in 1989. In this connection the initial cycle would be for the period July 1, 1988 through

June 30, 1989. All EAs would be required to apply for renewal during the period between July 1, 1989 and August 15, 1989. The first effective date of renewal would be October 1, 1989. Thereafter, the three-year enrollment cycle to which Wynn referred would begin. For example, the first of the three-year cycles would be for the period July 1, 1989 to June 30, 1992. A condition of eligibility for renewal of enrollment would be the satisfaction of continuing education requirements in accordance with the proposed regulations.

Let's talk about the continuing education program. First, let's talk about the programs that would qualify under the proposal. It's important to the Joint Board that qualifying education programs be responsive to the needs of EAs. If EAs are to maintain a level of knowledge with regard to ERISA laws and regulations, the overriding consideration is determining whether a specific program qualifies. Would it contain current subject matter which will enhance the professional knowledge of an EA? I think we all recognize that the services performed by an EA are unique. Consequently, any continuing education program must include courses directly related to the performance of actuarial services under ERISA and the Internal Revenue Code. The content of such courses has been termed core subject matter. The proposal specifies that core subject matter includes the characteristics of actuarial cost methods under ERISA, actuarial assumptions, minimum funding standards, Title IV of ERISA, requirements with respect to the valuation of plan assets, requirements for qualification of pension plans, maximum deductible contributions, and standards of performance. Other topics may be determined by the Joint Board on a case by case basis.

The Joint Board also recognizes the diverse nature of an EA's work. It believes that tying continuing education to ERISA and the Internal Revenue Code courses of learning would be required in view of that diversity. An EA, therefore, may complete courses of learning of a noncore nature designed to enhance the knowledge of an EA in matters related to the performance of actuarial services under ERISA. The publication of a complete listing of applicable educational courses or subject matter is not contemplated. However, professional knowledge of an EA in the noncore area is considered to include pension accounting, economics, computer programs, investments and finance, amortization skills and business and non-ERISA tax law. Generally, a particular course would qualify if it can be demonstrated that the subject matter would provide substantive improvement of the professional knowledge or method of the EA.

Traditional education methods such as college courses, seminars, symposia, and conventions such as this would provide vehicles that would satisfy the requirements of the regulations. Correspondence or individual study programs that contribute to the professional confidence of an EA and that provide evidence of satisfactory completion by the EA also would qualify, with the amount of credit to be determined by the Joint Board. The objective in determining the amount of credit to be allowed for specific correspondence and individual study programs, including tape study programs, was to determine the equivalency of each such program to a comparable seminar or a comparable course for credit at an accredited educational institution. Credit would be allowed in the renewal period in which the course is completed. It also is recognized that instructing relevant courses, writing articles, and successfully completing the Joint Board examination in pension law are ways of demonstrating continuing education. Consequently, such activities could be used to help satisfy the continuing education requirements of the regulations.

The next area of consideration is that of required number of hours. Under the proposal, as Wynn suggested, an actuary would be required to complete 36 hours of qualifying continuing education during each three-year enrollment cycle. A minimum of 8 hours of qualifying education would be required to be completed each 12-month period of the cycle. Of the 36 hours, at least 18 must be comprised of core subject matter and the rest may be of a noncore nature. In order to effectively implement renewed enrollment for October 1, 1989, which is the start-up period, all EAs would be required to complete 12 hours of continuing education during the period between July 1 of this year and June 30 of next year. At least 6 hours must be comprised of core subject matter.

To qualify as a sponsor an organization must be an accredited educational institution, be recognized for continuing education purposes via state entity, responsible for the issuance of a license in the field of actuarial science, colleges, law or insurance, be a professional organization whose programs include offering continuing education programs as contemplated in the proposal or be a sponsor who has filed a sponsor agreement with the executive director of the Joint Board.

Professional organizations also are required to request sponsor approval from the executive director and provide requested information. All programs would be measured in terms of 50-minute contact hours. The shortest recognized program would be one contact hour. The purpose of this standard is to develop a uniform system of measurement and to help assure that the activity has substance. The contact hour is defined as 50 minutes of continuous participation in a program. Under this standard, credit will be granted only for *full* contact hours. A program lasting more than 50 minutes but less than 100 would count for only one hour. When individual segments are fewer than 50 minutes of continuous conference, conventions and the like, the sum of the segments would be considered one total program but would be assessed on the basis of a 50-minute contact hour in multiples thereof. For example, even though this session lasts 90 minutes, if you attend another 90-minute session you have a total of 180 minutes or three contact hours, with 30 minutes left over, which perhaps you could apply to another 90-minute session.

For use in your college hours, each semester hour credit would be for 15 contact hours, a quarter hour credit would equal 10 contact hours. In order to evidence the completion of continuing education, an EA would be required to maintain records relative thereto for a period of three years following the date of renewal. Record keeping also is required of those who satisfy continuing education by serving as an instructor or preparing publications.

Now, let's briefly address an EA who fails to renew and/or to satisfy the continuing education requirements under the regulations. Such an individual would have his or her enrollment placed in an inactive status until such time that an application for renewal is filed and/or evidence of completion of the continuing education is provided. During such inactive status the individual would be ineligible to perform actuarial services as an EA. One who is in an inactive status and who has not filed an application for renewal or who has not satisfied the continuing professional education (CPE) requirements within three years of the expiration date of his or her last active enrollment would be considered to have abandoned such enrollment and the enrollment would terminate. Enrollment must then be reestablished on the basis of whatever regulations and requirements are on the books at that time.

And finally, under the proposal the Joint Board is to review the continuing education records of EAs and/or program sponsors in a manner deemed appropriate to determine compliance with the requirements of the regulations. Failure to comply with the request for the appropriate documentation could result in a disqualification of the continuing education hours claimed.

As we indicated, the commentary on the proposal ended on April 4, 1988. At that time, 50 comments, 3 of which were signed by more than one person, had been received. I think it appropriate to say the comments, which have not yet been fully analyzed, cover the waterfront and range from objections to the EA status, to the newly required proof of the benefits of continuing one's education, to full support of the proposal. Please be assured that the Joint Board considers all comments very important and will carefully analyze and consider these comments before engaging in the next step of the rule-making process.

MR. KENT: Before you open it up for discussion, I asked Les after the last EA meeting to go through the program and indicate which sessions he felt were core and which were noncore, and he was kind enough to do that. In addition to that, as those of you who attend the EA meetings know, we changed our timing so that every session was 100 minutes; consequently, anybody who attended a given session at the EA meeting had 2 hours of credit automatically for each session attended.

The EA sessions in Washington had 61 separate sessions; and of those 61, 39 were deemed core and 22 were deemed noncore so that 64% of the program was dedicated to core subject matter relevant to EA continuing education credits. I took this Society program and analyzed it using Les' assessment of the EA meeting as a criterion for deciding which were core and which were noncore. I came out with 30 sessions as being core over this 3-day period, 57 noncore out of the total of 87 sessions, or 34%. Of the 57, I estimated that there were about 19 that were nonpension-related matters, which would not even be given noncore credit. That meant that we had some 38 noncore sessions available to us and 30 core sessions during this 3-day period.

FROM THE FLOOR: When one goes to a meeting such as this where we know that the sponsor has been approved, how do we know ahead of time whether a particular session has been approved, and do we know whether it's core or noncore?

MR. SHAPIRO: Under my perception of how the program will operate, only the sponsors will be approved. There will not be preapproval of the actual segments of a program, so your question is quite appropriate and I hope that I can give you an answer that will be somewhat satisfactory to you.

I believe that a meeting such as this will address the subject of which of the courses it's offering are core or noncore and will label them accordingly. It will be on the honor system, if you will, and will be subject to scrutiny only if the Joint Board audits that particular program. It also will be the burden of the EA to determine whether or not the session meets the core or noncore requirement. This is true, of course, for any continuing education program a professional may engage in.

MR. JAN R. HARRINGTON: I was hoping to wait and give lots of other people a chance because I feel I have had more than my fair share of comments in writing. I read over most of the letters that Les was kind enough to send me,

and one person who piqued my interest more than anyone else said, "I don't think you've got the authority to do this." That had never occurred to me before. When I was growing up, if you did something wrong, the policeman came up, took you by the ear, took you home to your parents and they thanked the policeman for doing that. We've moved out of that. We've moved to a position where authority has to justify itself. In fact, I would say mandatory continuing education is a "neat" idea, to use the words of Oliver North. But if you look at the words of ERISA, and you look at the conference reports, and they're not very long, 75% goes into very detailed specifics on the education needed by people to become enrolled to begin with, about 20% goes into the bad things that would cause you to be disenrolled and 5% is pure establishing of the Joint Board.

There's not one word about not completing mandatory continuing education is grounds for disenrollment. Yet, a body like Congress that goes into all this detail about education needed to become an actuary, if you were contemplating requiring continuing education to keep that, would surely have put in a sentence or some kind of suggestion in the conference report to say although we're serious about education to get in, we insist you have it to carry on. I think you need to go back to Congress and get the authority to do this before you hit us with it.

MR. SHAPIRO: The Joint Board is being provided a copy of the comments received only this week, so Mr. Harrington and Wynn have had the comments ahead of even the Joint Board. All comments will be fully addressed. With that said, let me mention that I didn't think it was possible for another EA to come up with an idea that you didn't already have, so I'm pleased that there was one that gave you some pause.

The legislative authority issue is one that I see you have in mind. If the legislation doesn't say specifically to continue with education, the Joint Board has no business requiring continuing education. I'm of the personal view that the broad authority given the Joint Board relative to the enrollment of individuals who wish to perform actuarial services does provide us the authority that is needed, and that issue was in fact considered by the Joint Board before issuing the proposal in the *Federal Register*. It will again be considered by the Board before the issuance of further regulations on the subject.

I might mention that the legislative history, as I recall it, does refer very specifically to the Treasury Department enrolled agents program and wishes to have a program for EAs that parallels the enrolled agents program. This is why I became involved with you actuaries back in the days following ERISA in 1974 because of my job at the Treasury Department.

To the extent that the regulation adopted for enrolled agents mandates continuing education for those enrolled to practice before the IRS, I believe that following the wishes of Congress, a parallel program should be established for EAs if we're speaking of specific legislative history. If you feel that the performance of actuarial services is a horse of another color, if you will, and should not be addressed in the Joint Board's regulations; then, of course, I could consider the fact that I have no alternative but to recommend mandating continuing education in Treasury Department Circular 230 for EAs as well as enrolled agents. So that's the best answer I can come up with right now.

MR. KENT: I think that if the Joint Board came to the conclusion that they did not have the mandate in their existing regulations, some of the existing programs that are currently underway by the Conference of Actuaries in Public Practice, by ASPA, and by the Academy which have been spurred on by these proposed regulations might take the place of something more formal and satisfy our continuing education demands and needs.

MR. SHAPIRO: I was hoping that you would refer to the comments that supported the concept fully.

MR. HARRINGTON: I would be happy to refer to those, with the caveat that I don't speak for myself. I seem to speak for more than me and someone who is listening to this tape in the car might have just heard a siren go past and think the comments I was making were in fact my own, rather than other people's.

MR. BRIAN B. MURPHY: I have three categories of comments.

First of all, regarding the eight-hour minimum per year, I wonder how that would be administered in the case of a person who in the first year of his or her cycle fails for some reason to achieve the eight hours, but yet over the entire three-year cycle achieves a total of 36 or more. It would appear that that situation needs to be addressed.

Another question in the same vein would relate to a person who over a three-year cycle completes significantly less than 36 hours, say 20 hours, and is therefore placed in inactive status. Exactly what will happen to that person? For example, suppose that the week after he becomes inactive he earns 16 hours -- then is that okay?

The next question relates to the record keeping. Specifically, let us say that an EA's records are lost or destroyed in a fire and he is not able to reproduce them, possibly through carelessness on his part or possibly not. Does that then mean that the individual has a responsibility to notify the Joint Board that the event has occurred? Second, if an EA's records are lost or destroyed, what will be done?

Finally, it occurs to me that in proposing what appears to me to be a significant new body of regulations, it would be hard to preamble it with some specific justification. In other words, what are the specific problems that these regulations are intended to solve, and how will they achieve that? Have we found that there are major areas of practice where EAs are doing a very poor job, and, if so, what are those areas and how will these regulations stop that from happening?

MR. SHAPIRO: The first issue you raised was that of the eight-hour minimum requirement of each year of the renewal cycle or the enrollment cycle. I think that is a very valid question, and I think it's one that this board will have to carefully consider. I don't have a ready answer. If for some reason or another, you only take seven hours in year one, but have 40 hours altogether, four more hours than you need in the aggregate over the three-year period, does that mean you fail to meet the requirements of the regulations because you didn't have the minimum eight hours in year one of the enrollment cycle? A strict construction of the proposed regulations would suggest that you're out. There is really no way of making that up. You can't go back two years or three years or whatever the year might be for that purpose. Consequently I

think your point is well taken, and we will have to address it in the next step of the procedure.

The next point you raised is how you make up the credits you may be missing if you don't have your full complement of continuing education credits when it's time to apply for renewal. Are you out for three years and then come back after the three years? That is not what the proposed rule was meant to say, and you are not the only one who commented on that.

If you have 35 hours at the end of the three-year period, you're one hour short. Just as soon as you make up that one hour, you may furnish those records to the Joint Board or file the application for renewal, whichever the case may be, and your application for renewal will receive favorable treatment. The three-year rule is to give the EA three years worth of flexibility to bring himself or herself in compliance with the regulations. We think that this is most fair and should provide all the opportunity that an EA needs to make up the deficiency. If you don't want to make up that extra hour the first month after the cycle is over, you have the whole three-year period to do it. Of course, you can't use any hours of CPE for make-up purposes to apply prospectively. So if you're missing one hour, that means that in the next three-year cycle you have to make up the one hour plus 36 hours.

The next issue you raised is that of the record keeping. If for some reason the records are lost, misplaced, or destroyed in some fashion, what do you do? Does that mean that you're no longer enrolled? This would be a matter for Joint Board consideration.

We think that we will listen to anything that might support a request for special exceptions on why you can't comply with the demands of the regulations. I hate to use the word demand, but let's use that. In addition, there are ways of cross checking. We would hope that with a three-year enrollment cycle the EA affected would remember the courses he or she has taken, and we could cross check that with the course provider, who also is required to keep records. Now, if you both lose the records, then we are in deep trouble in that regard. But, hold onto the records. I don't think you should open a safe deposit box to keep them, but try to hold onto them.

Let's look at the problems or the issues the Joint Board hopes to address by mandating a continuing education program for EAs. It is usually understood that continuing education for professionals constitutes a measure of assurance to the public that the members of that profession are keeping abreast of the dynamics in terms of trends and the difficulties within his or her profession. It's this measure of assurance, this service to public, that underlies most continuing education programs in this country.

With respect to the record keeping aspects of some of these credits, I think the major organizations are going to be a big help. I do know, for example, that the EA meeting that is sponsored jointly by the Conference and the Academy had tickets prepared as a test run to record attendance at various sessions, and it's contemplated that those will be tallied and a record submitted to attendees. I think this trial run will be evaluated and if it works, this will be one source of record for you. I know that the sheets that are being used for this session by the Society will also be computerized and run.

MR. BARNET N. BERIN: I'm going to address basically the question of college courses, effective date, retroactivity and the numbers game which I think is currently being played. If I have it right, one college course of a core credit would satisfy the three-year cycle immediately. I found that interesting and a little bit surprising, because most college courses that I know of are not the equal of various professional meetings, although there are exceptions. It is very important to realize that once this program gets in place, everything will change anyway. The courses and the professional meetings will be different; they may be better. Second, I wondered if you would say something about the probable effective date, if you're willing. Third, on the issue of retroactivity, we mentioned that there would be no retroactivity; that's what we've been hearing. I hope you share that with us.

The misleading advertising on the part of the Society announcing that retroactive credit will be granted was unfortunate, because we don't really know if retroactive credit will be granted for attending these or other sessions.

Clearly, once this is in effect the meetings will be different, the emphasis will be different. One meeting is a specialty meeting, directly for EAs, and one would expect a higher percentage of core subjects. Further, there was a six-hour seminar that preceded this meeting that almost anybody in this room could have attended and would have gotten credit for.

In summary, I know you're steering people towards college courses. Is that just a consequence of the regulations and not intended? Can you give us an idea of an effective date and can you share anything on retroactivity?

MR. SHAPIRO: I'll try to answer all three. College courses are considered the most traditional way of becoming educated, and I think that the regulations would be remiss if they did not include college and university courses as being able to satisfy the requirements of the regulations.

I'm not sure what college or university courses are currently being offered that address core subject matter material. It is my understanding that there are few, if any, such courses currently being offered at colleges and universities. However, under the proposal if you satisfy a three-credit semester course at a college or university, you get 45 hours of continuing education. Theoretically, that would satisfy all the requirements of the regulations. However, under the proposal one must have eight hours in each year of the enrollment cycle, and contrary to what I just told Mr. Murphy in response to his questions, you could go for a college or university course that gives you 45 hours of CPE credit in one year. I think we've had a comment or two about that and we've been told how terrible we were, in essence, for not recognizing full satisfaction of the CPE requirements for the entire enrollment cycle if someone has gone through the time and trouble and trauma of taking a college or university course. But, until we know more about what courses college and universities offer in core subject matter, the whole issue may be moot.

The effective date of the regulations is unknown at this point. As I indicated, the proposal we are making would have the regulations go into effect July 1 of this year. In the normal course of government business and the competing demands that the members of the Joint Board have on their jobs, it is difficult to know how long it's going to take us to come to terms with the many comments we've received, many that warrant our careful attention and our best judgment.

I would like to offer the view that the effective dates of the regulations probably will not be July 1, 1988, but I won't say that. I would like to say that the effective date of the regulations may be on a calendar year basis. Many of the people who commented would prefer that, but I won't say that either. It remains to be seen what the effective date of the regulations will be.

Retroactivity is a little easier for me to talk about. The Joint Board did consider the several requests we received relative to the retroactivity of a program. There were specific requests from actuarial organizations and specific requests from other providers of continuing education programs.

After thorough deliberation on the subject, the Joint Board concluded that there would be no retroactivity for courses offered before the effective date of the regulations. We believe that any consideration given for those EAs who may be adversely affected in getting rolling in the continuing education program should be prospective rather than retroactive in nature.

Since we have no idea what the final regulations will look like or indeed when they will be effective, it would be very difficult for our Joint Board to give its blessing to continuing education programs that were held prior to the effective date of the final regulations.

Finally, I believe that as an element to achieve fairness, it would be inappropriate for the Joint Board to recognize continuing education programs retroactively because there may be course providers who, had they believed retroactivity to be a fact, would have engineered the courses to have met the requirements of the proposed regulations. Consequently, I fully support the Joint Board's decision in that matter.

The advertising business about "come to our meeting, retroactive credit may be given" is somewhat misleading in my judgment. I believe that it was an inappropriate thing to do. I'm unaware of who did it, by the way, or if it was done at all. I would have to conclude it was, because you did write it as a question. I think it was unfair to people who may have been attracted to the program under the belief that retroactive credit would be given. The advertisers should have at least checked with us before they engaged in such an aggressive advertising campaign.

FROM THE FLOOR: We are all accustomed to using proposed regulations as if they were final until something final comes along. In view of what you just said, do you feel that you might publish something in the *Federal Register* indicating that? Otherwise, people are going to be turning up, perhaps at the conference in San Francisco in October, expecting that to be creditable. If you haven't got final regulations out by then, there are going to be a lot of disappointed and annoyed people if, eventually, they find that they didn't get credit.

MR. SHAPIRO: Thank you for that suggestion; perhaps we should publish something. I think that any proposed regulation project is rather speculative in nature, and that no one should hang his or her hat on the proposed regulations being the real thing. We will consider that suggestion and if we think the proposed regulations warrant some clarification in the *Federal Register*, we will advise some of the major meeting planners that they should tell their prospective attendees that the courses may or may not count.

MR. DICK LONDON: I'm a perennial defender of the university programs from time to time on different issues. I would like to take issue with Mr. Berin's comment that the university programs perhaps are not the equivalent of the professional society programs. There's one feature that university programs traditionally have that the professional society sessions such as this traditionally do not have, and I wonder if you're taking this into account in your writings or if this may have a bearing on changes of future design of professional society programs. That is that, as imperfect as they may be, traditionally university programs will carry with them at least an element of verification that some learning has taken place through assignments, tests, etc.

However, I don't know too many EAs who are practicing who have the time to go back to college to take courses that would be considered core or noncore. If we can encourage the universities to provide that kind of additional education for our profession, I think that would be a plus. It would be wonderful if colleges or universities could at least have sessions (they don't have to be full semesters or full-term sessions) that would satisfy the requirements of the regulation. EAs outside metropolitan areas and removed from places where meetings are readily available could certainly use that to the extent that they do have connection with colleges and universities. I encourage you to get together with those institutions and try to talk them into providing those courses.

MR. DAVID L. DRISCOLL: You indicated in your earlier remarks that the individual EA is responsible for making sure that the continuing education activities that he or she may pursue meet your definition of continuing education, and that you're not going to publish a list in advance stating those which meet the requirements for a core course. Since many of us are still pursuing membership in the Society at either the Associate or Fellowship level, you might consider preapproving or preaccrediting some of the exams or courses of the Society of Actuaries.

MR. SHAPIRO: It has been suggested that the Society of Actuaries examinations should count for continuing education. We have some comments that have suggested that in the year the EA passes the Society exam, that person should be exempt from meeting the requirements of the CPE. Both comments will be addressed. I'm not an actuary and I'm not familiar with the entire syllabus of the Society of Actuaries, but I believe that many Society of Actuaries exams would count. I'm not sure of the extent to which we'll be able to make that decision without reviewing the actual exam. We faced problems similar to that in just being able to grant credit for enrollment purposes on the basis of Society exams, and those decisions were only made after we were able to review the adequacy of the exam itself. There could be some Society exams whose subject matter is such that it would appear appropriate to give some attention to those exams, but at this moment I'm not prepared to give you any answer to your questions that you can walk away with. I think the point is well taken though, because the pension track that the Society is embarking upon will certainly have content which should be recognized by the Joint Board.

MR. BERIN: In regard to tapes, are they to be given the same credit as someone who has actually come to these sessions? I can see a body of videotapes or audiotapes circulating around as "satisfying your continuing education requirements." How are you going to deal with tapes?

MR. SHAPIRO: I really don't remember what we said about that, but I think it would be rated as if it were a seminar program presented at a convention or

meeting, such as this, or the equivalent of a college course if the case evidences that. There has to be some measurement of the fact that the person has, in fact, listened to the tape. Many of the comments we received talked about videotaped, as well as the audio, and certainly the Board would give attention to that concept and its assessment of the regulation.

We had a few comments that have talked about teleconferencing as meeting the requirements of the regulations. This is an interesting concept to me, and I'd like to learn more about how something like that would work. Because we did hear it from more than one person and indeed from one of the organizations that furnished comment, I think that the Board would be well advised to determine exactly how teleconferencing would work in the continuing education mode.

MR. PATRICK LANDRY: I'm not an EA. I'm not familiar with all rules and regulations, but the question that came to mind for me is, is there any requirement as to how many hours you have to actually work to keep your status?

MR. SHAPIRO: That's an interesting question. The regulations are silent on that. Presumably an EA, once enrolled, does not have to work at all to keep his EA status, and even when he or she claims to be working, we are not sure that they are working. I'm sure there are employers who would probably agree.

There is no requirement for that. It is a professional designation the same as an attorney or a doctor. A lawyer, once he's a member of the bar, remains a member of the bar provided he meets the requirements imposed on him or her by the state licensing authority. So it's not a designation that is taken away simply because the EA engages in an endeavor other than EA work.

MR. JAMES B. GARDINER: Will the Joint Board notify us individually when our three-year enrollment is up, or do we take the initiative?

MR. SHAPIRO: The Joint Board will notify all EAs on our active roster of the new requirements. I think it's an affirmative duty that the Joint Board has in this connection. With that said, let me state that not receiving notification of the new regulations will not excuse an EA from the need to comply with them. EAs have continued to fail to notify the Joint Board when they change addresses, and actuaries move around like no other group of people I've ever seen. Consequently, it is almost impossible to find them, and the address where we will be contacting the EAs will be at their address of record with the Joint Board. I implore you to please notify us if you change your address. It becomes increasingly important to do so.

FROM THE FLOOR: There is one area that hasn't come up, and I think that everybody would benefit by your discussion of it. That's the question of in-house training sessions and in-house seminars. Many firms, but certainly not all firms, have extensive programs. When legislation is passed, there is usually some internal training. I think that it would be to everybody's benefit to have the views expressed on how your treat such programs.

MR. SHAPIRO: Let me ask how many of you are associated with firms with ongoing continuing education programs? How many of you are not? How many of you would favor approving in-house training as meeting the requirements of our regulations?

MR. KENT: I think that I should indicate for the record the response of the hands. The response to the question of how many have in-house programs was about 80% of the people in attendance. The other 20% do not have in-house programs. The response to those who would favor having in-house programs recognized was likewise approximately 80%. How many would not want in-house programs recognized for continuing education? The response is approximately 4%.

Would you care to tell us why you wouldn't want them recognized?

MR. HARRINGTON: I think that if you're going to impose something that is supposed to be impartial on the entire EA community, you shouldn't give firms that have vast resources this carte blanche. The small companies are handicapped because they don't have the assistance and are forced to go through whatever amounts of continuing education is demanded of them. This makes them unavailable to their clients for those days, when big firms can have other actuaries take care of the clients while their people are away from work. I just don't think it's fair, and I think government regulations should be fair.

Many of the letters that I read were from EAs who are one-man practitioners, and most of their problems are involved in spending time away from their practice to satisfy the requirements. The letters all seem to imply that the EAs have to study continuously to keep up with client problems but found it hard to take the time away from their practice for financial reasons. I think that's something we're going to have to address as well. Of course, that's true for any continuing education program; there are some that always feel put upon because it takes away billable hours from them. While that's true, the benefits of continuing one's education overcome the loss of the several billable hours during the course of the year's time.

MR. SHAPIRO: Let me ask you one more question on the subject of in-house programs. What's your personal view as to the possibility of your firm opening some continuing education programs to people outside of the firm?

MR. HARRINGTON: I can't speak for the firm, but speaking for myself, I would think that most of the in-house classes that we do that would be relevant to core subjects could be opened to people outside our firm. But we do a lot that would be considered noncore where we deal with confidential matters that we really couldn't open up.

MR. SHAPIRO: I appreciate your candor; let me ask you one other question. If the Joint Board were to request an audit of your noncore confidential course to see if you're complying with the requirements of the regulations, what is your personal view of what your firm would say to that?

MR. HARRINGTON: Providing that the Joint Board maintained the confidentiality within its audit system, I don't see that there would be a problem. I'm sure the Joint Board has vast experience of maintaining confidentiality.

FROM THE FLOOR: I note that enrolled agents have got to do twice as much continuing education as EAs. Is that a reasonable measure of their quality as human beings, their value to the system, the amount of education that is needed? Would you care to comment on that?

FROM THE FLOOR: Enrolled agents have to train 40 hours a year. The proposed regulations have EAs training 12 hours a year. Would you comment on the disparity on the hours required for the different jobs?

MR. SHAPIRO: The subject of hours, of course, was the subject of a lot of discussion among the members of the Board before the magic 36 hours was arrived at. I think that the difference between the EA profession and the enrolled agent community is the difference in the discipline. The EA deals with a far smaller segment of the Internal Revenue laws than the enrolled agents deal with, and I think that that's part of the reason for the disparity.

We have had a comment or two that we aren't requiring enough hours; on the other hand, we have even more comments that are saying we are requiring too many hours. It's difficult to arrive at what is really the best number of hours for EAs. The requirement is that 36 hours over the three-year period is the minimum number that should be taken. Now, let me quickly add that you are not bound by the 36 hours; if you want to do 72 hours you are perfectly free to do that. Perhaps the demand on your professional lives vis-a-vis new laws, new regulations will dictate what you should do in that regard.

FROM THE FLOOR: I don't think you've answered the one about in-house meetings?

MR. SHAPIRO: Well, my answer to that question is that there is no answer. It's one that has raised a great many comments, and one that is very important to those affiliated with firms that offer ongoing, continuing education programs. It's one that the Joint Board will have to come to terms with, because we have not discussed it. I'm not going to be so presumptuous as to offer even a personal view on that subject. We want to be fair, and we will have to achieve what we think is the right balance in that connection as well as in other areas of the proposal.

Before we conclude, let me just ask you your thoughts, perhaps with the hand vote again, with regard to core and noncore. The Board thought that it was being eminently fair in going the core/noncore route. We thought we were really responding to the concerns of the EA community in having the choice of core or noncore with a requirement of a minimum number of core hour courses. To my amazement a number of comments said "why are you doing the noncore business? You have no right to make any demands on the EA community outside the specific reasons we are enrolled. So you should only limit your regulations to core subject matter courses." I continue to be somewhat astounded at that. I recognize the comments and respect the comments, but we have to come to terms with both comments as well as all of the others we have discussed.

With that said, let me ask you through the show of hands, how many disagree with the core/noncore concept? Let the record show three hands are raised disagreeing with that concept.

Who abstains? There are four people who abstain.

They're certainly entitled to abstain because that's sort of where I am in view of the comments. I think that we are going to have to reexamine that concept. I believe that the noncore subjects that we've identified in the proposed regulations, and of course they're not all inclusive as the proposal says, are very relevant to quality pension actuarial services. I think that developing your

understanding and expertise, if you will, in those areas will help you make your enrolled actuarial services more efficient and more effective. Consequently, in my personal view there is clearly a message between the noncore and the core. We will be taking a closer look at that, and a decision will be made as to what we should do with it.