



SPONSOR: Sen. Poore & Rep. Brady
Sens. Pettyjohn & Richardson;
Reps. Bolden, Spiegelman & Dukes

DELAWARE STATE SENATE
148th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 218

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE BOARD OF ACCOUNTANCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 1, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 102. Definitions.

The following definitions shall apply, unless the definition is inappropriate for the context:

“AICPA” means the American Institute of Certified Public Accountants.

“Attest” means providing the following services:

a. any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

b. any review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);

c. any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE);

d. any engagement to be performed in accordance with the standards of the PCAOB; and

e. any examination, review, or agreed upon procedures engagement to be performed in accordance with the SSAE, other than an examination described in subsection (c).

“Certificate” means a certificate of “certified public accountant” issued by the Board pursuant to this chapter or the prior law of this State, or a reciprocal corresponding certificate of certified public accountancy issued after examination by this Board under the law of any other state.

“Certified public accountant” means the holder of a certificate and permit to practice certified public accountancy.

21 “Certified public accounting” or “the practice of certified public accountancy” means ~~public accounting that is~~
22 ~~being practiced by a certified public accountant~~ the performance, or offer to perform, for a client or a potential client,
23 by a person or firm holding itself out to the public as a CPA permit holder, of one or more kinds of services involving
24 the use of accounting or auditing skills, including the issuance of reports or financial statements, or of one or more
25 kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the
26 furnishing of advice on tax matters.

27 “Client” means a person or entity that agrees with a permit holder or permit holder’s employer to receive any
28 professional service.

29 “Compilation” means providing a service to be performed in accordance with, and as defined by, Statements
30 on Standards for Accounting and Review Services (SSARS).

31 “Licensee” means an individual or firm licensed under this title or under corresponding law in another
32 jurisdiction.

33 “NASBA” means the National Association of State Boards of Accountancy.

34 “PCAOB” means the Public Company Accounting Oversight Board.

35 “Peer Review” means a board-approved study, appraisal, or review of one or more aspects of the attest and
36 compilation services rendered by an individual or firm permit holder performed by a person or persons who hold
37 Delaware permits or are duly licensed in another jurisdiction and who are not affiliated with the individual or firm
38 permit holder being reviewed.

39 “Principal place of business” means the office location designated by the ~~practice privilege holder for~~
40 ~~purposes of substantial equivalency and reciprocity~~ licensee.

41 “Report” when used with reference to any attest or compilation service, means an opinion, report, or other
42 form of language that states or implies assurance as to the reliability of the attested information or compiled financial
43 statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it
44 has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge
45 or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an
46 accountant or auditor, or from the language of the report itself. The term “report” includes any form of language which
47 disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to
48 the reliability of the attested information or compiled financial statements referred to and/or special competence on the
49 part of the person or firm issuing such language; and it includes any other form of language that is conventionally
50 understood to imply such assurance and/or such special knowledge or competence.

“State” means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Guam; except that “this State” means the State of Delaware.

“Substantial Equivalency” is a determination by the Board of Accountancy or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed the education, examination and experience requirements contained in the Uniform Accountancy Act or that an individual CPA’s education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in the Uniform Accountancy Act. In ascertaining substantial equivalency as used in this act the Board shall take into account the qualifications without regard to the sequence in which experience, education or examination requirements were attained.

§ 103. Board of Accountancy; appointments; qualifications; term; vacancies

(a) There is created a State Board of Accountancy which shall administer and enforce this chapter.

(b) The Board shall consist of 9 members who are residents of this State and are appointed by the Governor, as follows:

(1) ~~Four~~ Five certified public accountants, 3 ~~all~~ of whom must hold ~~valid~~ active permits to practice certified public accountancy;

(2) ~~Two~~ One public accountants who holds a valid permits to practice public accountancy;

(3) Two members from the public at large; and

(4) One public member who is employed full time in the field of post secondary accounting education, ~~except that this provision shall not become effective until the attorney filling the position as of August 1, 2008, vacates the position or until that attorney’s term ends, whichever first occurs.~~

(d) Except as provided in subsection (e) of this section, each member shall serve for a term of 3 years and may succeed himself or herself for 1 additional term; ~~provided, however, that where a member was initially appointed to fill a vacancy, such member may succeed himself or herself for only 1 additional full terms.~~ Any person appointed to fill a vacancy on the Board shall hold office for the remainder of the unexpired term of the former member. Each term of office shall expire on the date specified in the appointment; however, the Board member shall remain eligible to participate in Board proceedings unless and until replaced by the Governor.

(j) Each member of the Board shall be ~~reimbursed for all expenses involved in each meeting, including travel, and, in addition, shall receive \$50 for each meeting attended, but not more than \$500 in any calendar year. After 10 meetings have been attended, the member shall not be compensated for any subsequent meetings attended in that year.~~

compensated at an appropriate and reasonable level as determined by the Division and may be reimbursed for meeting-related travel expenses at the State's approved rate.

§ 105. Powers and duties.

(a) The Board of Accountancy shall have the authority to:

(1) Formulate rules and regulations, with appropriate notice to those affected, ~~where such notice can reasonably be given.~~ Each rule or regulation shall implement or clarify a specific section of this chapter, ~~all~~ All rules and regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act, Chapter 10, Title 29 of the Delaware Code;

(2) Designate the application form to be used by all applicants ~~for certification and permits to practice,~~ and to process all applications;

(3) Designate ~~a written~~ an examination to be taken by persons applying for ~~certification or a permit,~~ as follows:

a. The Board shall adopt the Uniform Certified Public Accountant Examination as the national examination to be taken by all applicants for ~~certification~~ licensure as certified public accountants and use the advisory grading service of the American Institute of Certified Public Accountants (AICPA), or its successor organization.

(5) Designate the requirements for the issuance of ~~certificates and permits to practice~~ consistent with the provisions of this chapter;

~~(6) Issue certificates to all persons who meet the qualifications for certification;~~

Issue permits to practice to individuals and firms who meet the qualifications of this chapter;

Require the completion of continuing education requirements for all ~~certificate and permit holders~~ licensees;

Evaluate certified records to determine whether an applicant for a ~~certificate and/or permit to practice,~~ who has been previously licensed or certified, or who has held a certificate and/or permit in another jurisdiction, has engaged in any act or offense that would be grounds for disciplinary action under this chapter and whether there are disciplinary proceedings or unresolved complaints pending against such applicants for such acts or offenses;

§ 106. Certificate or permit required.

(a) The use of the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that a person is a certified public accountant shall be limited to a person who holds a ~~valid~~

110 ~~certificate and an active permit to practice issued by the Board pursuant to this chapter or issued under~~
111 ~~the laws of another jurisdiction, except that a person who holds a valid certificate, but is not engaged~~
112 ~~in the practice of certified public accountancy or public accountancy, may use the abbreviation~~
113 ~~"CPA"; provided, that it is clearly indicated that such person is not holding himself or herself out as~~
114 ~~practicing certified public accountancy. Holders of certificates only, who have never held a Delaware~~
115 ~~permit to practice, may not use the title or designation "certified public accountant" or the~~
116 ~~abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device~~
117 ~~tending to indicate that a person is a certified public accountant. Up to and including June 30, 2017,~~
118 ~~holders of certificates only who have held a Delaware permit to practice which has since lapsed may~~
119 ~~use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title,~~
120 ~~designation, words, letters, abbreviation, sign, card or device tending to indicate that a person is a~~
121 ~~certified public accountant; provided that it is clearly indicated that such person is not holding himself~~
122 ~~or herself out as a practicing certified public accountant. Upon proper notification to the Board,~~
123 ~~holders of CPA permits to practice who no longer provide any type of service or advice involving the~~
124 ~~use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting~~
125 ~~skills and who no longer meet the continuing education requirement under § 108 of this title must~~
126 ~~place the word "inactive" adjacent to their CPA title.~~

127 (b) The use of the title or designation "public accountant" or the abbreviation "PA" or any
128 other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such
129 person is a public accountant shall be limited to a person who holds a valid permit to practice public
130 accountancy.

131 § 107 ~~Certificate and permit requirements for certified public accountancy. Requirements and Qualifications for a~~
132 Permit to Practice as a Certified Public Accountant

133 (a) Each person who ~~intends to be or is engaged in the practice of certified public~~
134 accountancy and whose principal place of business is in this State, whether as a principal or employee
135 of a firm, shall be required to obtain and maintain a valid ~~certificate and permit to practice certified~~
136 public accountancy, or to qualify for the practice privilege under § 108 of this title. The Board shall
137 grant or renew permits to persons who make application and demonstrate their qualifications in
138 accordance with this section. A certificate and permit to practice certified public accountancy shall be
139 granted by the Board to any person who meets the following requirements: The permit to practice as a

certified public accountant shall be granted to persons who meet the education, experience, lack of disqualifying conviction and examination requirements of the following subsections of this Section and rules adopted thereunder and who make application therefore pursuant to § 108 of this title.

~~(1) (b) Is of good character. For purposes of the section, "good character" means that an~~The applicant has not been convicted of a crime that is substantially related to the practice of accountancy; however, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph ~~(a)(1)~~ (b) of this section, if it finds all of the following:

~~a.~~(1) For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

~~b.~~(2) For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

~~c.~~(3) The applicant is capable of practicing accountancy in a competent and professional manner.

~~d.~~(4) The granting of the waiver will not endanger the public health, safety or welfare;

(2) (c) Has The applicant has completed at least 150 semester hours of college education including a baccalaureate or higher degree conferred by an accredited college or university acceptable to the Board, the total educational program to include an accounting concentration or equivalent as determined by Board rule to be appropriate;

(3) (d) ~~Unless otherwise provided in § 113 of this title,~~ The applicant has successfully passed the Uniform Certified Public Accountant Examination and/or such successor examinations as may be required to qualify for a ~~certificate permit to practice~~, provided that the applicant may not sit for said exams until that applicant has successfully completed at least 120 semester hours of college education including a baccalaureate or higher degree conferred by an accredited college or university acceptable to the Board, the total educational program to include an accounting concentration or equivalent as determined by Board rule to be appropriate;

(4) (e) Has The applicant has successfully passed the AICPA self-study course and examination in professional ethics; and

(5)(f) Has The applicant has had ~~4~~ one year of experience. This experience shall include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or

consulting skills all of which was ~~verified~~ supervised by a United States certified public accountant, meeting requirements prescribed by the Board by rule. This experience would be acceptable if it was gained through employment in government, industry, academia or public practice.

~~(6) — If an applicant's certificate was issued more than 4 years prior to the application for issuance of an initial permit under this section, then the applicant, in the 2 years immediately preceding such application must have completed no less than 80 hours of continuing professional education that would have been applicable under subsection (d) or (e) of this section for renewal of such permit.~~

~~(b) The Board shall grant or deny any such application for a certificate and permit no later than 120 days after the application is filed in proper form. The Board may refuse or reject an applicant if the Board finds that the applicant has failed to meet the requirements in subsection (a) of this section; has misstated or misrepresented a material fact in connection with the applicant's application; has violated any section of the Code of Professional Conduct for Accountants; has practiced public accountancy or certified public accountancy without being registered in accordance with this chapter; or comes within the provisions of subsection (f) of this section.~~

~~(c) In the event that the Board has questions about an applicant's qualifications or application materials, the Board may request an explanation or additional information.~~

~~(d) A certificate and permit to practice will be issued to applicants who satisfy the requirements of subsection (a) of this section. Permits shall be renewed biennially. An applicant for renewal of a permit under this section shall show that the applicant has completed no less than 80 hours of continuing professional education in accordance with the Board guidelines during the 2-year renewal period that has elapsed since the last biennial renewal date. If an applicant's initial permit to practice was issued less than 2 years prior to the renewal date, the applicant must fulfill the following continuing professional education requirements:~~

~~(1) No continuing education requirement if initial permit was issued less than 1 year prior to the renewal date;~~

~~or~~

~~(2) A prorated continuing professional education requirement based on 80 hours (but no less than 40 hours) if initial permit was issued 1 year or more, but less than 2 years, prior to the renewal date.~~

~~(e) The Board may also provide by regulation that fulfillment of continuing professional education requirements of other states will be accepted in lieu of the requirements of subsection (d) of this section; provided, that such other states require at least 80 hours in a 2-year period.~~

~~(f) An applicant for initial issuance of a certificate and permit or renewal of permits under this section shall not have engaged in any of the acts or offenses that would be grounds for disciplinary action under this chapter and have~~

no disciplinary proceedings or unresolved complaints pending against the applicant in any jurisdiction where the applicant has previously held or currently holds a permit to practice. Each holder of or applicant for a certificate and permit under this section shall notify the Board in writing, within 30 days after its occurrence, of any issuance, denial, revocation or suspension of a certificate or permit by another state or jurisdiction.

(g) Where the Board has found to its satisfaction that an applicant has been intentionally fraudulent or intentionally supplied false information, it shall report its findings to the Attorney General for further action.

(h) Where the application of a person has been refused or rejected and such applicant feels that the Board has acted without justification; has imposed higher or different standards for the applicant than for other applicants or permit holders; or has in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

(i) Persons who have held valid certificates since June 30, 1985, which were previously issued under former § 107 of this title, but who have never obtained a permit to practice certified public accountancy, are deemed to hold valid certificates and may petition the Board for a permit to practice pursuant to this section.

§ 108. Issuance and Renewal of CPA Permits to Practice and Maintenance of Competency; Reciprocity.

(a) The Board shall grant or renew permits to practice to persons who make application and demonstrate that:

(1) their qualifications, including where applicable the qualifications prescribed by § 107, are in accordance with the following subsections of this section, or

(2) they are eligible under the substantial equivalency standard set out in § 109(a)(2) of this title.

(b) Permits to practice shall be initially issued, and renewed, for periods of not more than two years but in any event shall expire on June 30 of the odd-numbered year following issuance or renewal. Applications for such permits to practice shall be made in such form, and in the case of applications for renewal, between such dates, as the Board shall by rule specify, and the Board shall grant or deny any such application no later than 120 days after the application is filed in proper form.

(c)(1) Reciprocal permits to practice shall be issued to applicants who have passed the uniform CPA examination and hold a valid CPA certificate, license or permit to practice in a substantially equivalent state or who individually are determined to be substantially equivalent.

(2) With regard to applicants that do not qualify for reciprocity under the substantial equivalency standard set out in § 109 of this title, the Board shall issue a permit to practice to a holder of a certificate, license or permit issued by another state upon a showing that:

a. The applicant passed the uniform CPA examination;

b. The applicant had four years of experience of the type described in § 107(f) or meets comparable requirements prescribed by the Board by rule, after passing the examination upon which the applicant's certificate was based and within the ten years immediately preceding the application; and

c. If the applicant's certificate, license or permit was issued more than four years prior to the application for issuance of an initial certificate under this Section, that the applicant has fulfilled the requirements of continuing professional education that would have been applicable under subsection (d) of this Section.

(d) Permits to practice shall be renewed biennially. An applicant for renewal of a permit under this Section shall show that the applicant has completed no less than 80 hours of continuing professional education as determined by Board rule during the two year renewal period that has elapsed since the last biennial renewal date. If an applicant's initial permit to practice was issued less than two years prior to the renewal date, the applicant must fulfill the following continuing professional educational requirements:

(1) No continuing education requirement if initial permit was issued less than one year prior to the renewal date; or

(2) A prorated continuing professional education requirement as determined by Board rule if initial permit was issued one year or more, but less than two years, prior to the renewal date.

(e) For renewal of a permit to practice under this Section, each licensee shall participate in a program of learning designed to maintain professional competency. Such program of learning must comply with Rules adopted by the Board. The Board may by rule create an exception to this requirement for permit holders who do not perform or offer to perform one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters, and who make application for inactive status to the Board. Licensees granted such an exception by the Board must place the word "inactive" adjacent to their CPA title on any business card, letterhead or other document or device with the exception of their CPA permit to practice, on which their CPA title appears. Holders of an inactive permit to practice certified public accountancy may apply to have their permit to practice reinstated pursuant to Board rule.

(f) Applicants for initial issuance or renewal of permits to practice under this Section shall in their applications list all states in which they have applied for or hold certificates, licenses or permits and list any past denial, revocation or suspension of a certificate, license or permit, and each holder of or applicant for a permit to practice under this Section shall notify the Board in writing, within 30 days after its occurrence, of any issuance, denial, revocation or suspension of a certificate, license or permit by another state.

(g) Holders of expired permits to practice as of July 1, 2016 may apply to have their permit to practice reinstated upon a showing that the applicant has completed no less than 80 hours of continuing professional education as determined by Board rule during the two-year renewal period ending June 30, 2017. Any holder of an expired permit to practice who fails to reinstate their permit by June 30, 2017 shall be required to meet all of the requirements for the initial issuance of a permit to practice pursuant to § 108 herein.

§ ~~108~~ 109 Substantial equivalency.

(a)(1) An individual whose principal place of business is not in this State and who holds a valid license as a certified public accountant from any state which the NASBA National Qualification Appraisal Service has verified to be in substantial equivalence with the CPA licensure requirements of the AICPA/NASBA Uniform Accountancy Act shall be presumed to have qualifications substantially equivalent to this State's requirements and shall have all the privileges of ~~certificate and~~ permit holders of this State without the need to obtain a ~~certificate or~~ permit under § ~~107~~ 108 of this title. Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person, by mail, telephone or electronic means, under this section shall be granted practice privileges in this State and no notice or other submission shall be provided by any such individual. Such an individual shall be subject to the requirements in paragraph (a)(3) of this section.

(2) An individual whose principal place of business is not in this State and who holds a valid license as a certified public accountant from any state which the NASBA National Qualification Appraisal Service has not verified to be in substantial equivalence with the CPA licensure requirements of the AICPA/NASBA Uniform Accountancy Act shall be presumed to have qualifications substantially equivalent to this State's requirements and shall have all the privileges of ~~certificate and~~ permit holders of this State without the need to obtain a ~~certificate or~~ permit under § ~~107~~ 108 of this title if such individual obtains from the NASBA National Qualification Appraisal Service verification that such individual's CPA qualifications are substantially equivalent to the CPA licensure requirements of the AICPA/NASBA Uniform Accountancy Act. Any individual who passed the Uniform CPA Examination and holds a valid license issued by any other state prior to January 1, 2012, may be exempt from the education requirement in § ~~107(a)(2)~~ 107(c) of this title for purposes of this paragraph (a)(2). Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person, by mail, telephone or electronic means, under this section shall be granted practice privileges in this State and no notice or other submission shall be provided by any such individual. Such an individual shall be subject to the requirements in paragraph (a)(3) of this section.

§ ~~109~~ Reciprocity

(a) The Board shall issue a permit to a holder of a certificate or permit issued by another state upon a showing that the applicant:

(1) ~~Meets all current requirements in this State for issuance of a certificate or permit at the time the application is made;~~

(2) ~~At the time of the issuance of the applicant's certificate or permit in the other state, met all such requirements then applicable in this State;~~

(3) ~~Has had 5 years' experience in the practice of certified public accountancy or its equivalent, with such experience having been obtained after passing the examination upon which the applicant's certificate was based and within the 10 years immediately preceding the applicant's application; or~~

(4) ~~Meets the requirements of § 107(a)(5) of this title, the requirements of § 107(a)(6) of this title, if applicable, and, the requirements of § 107(f) of this title.~~

(b) The applicant shall contact the licensing authority or comparable agency in such other jurisdiction or jurisdictions in which the applicant currently or previously has been authorized to practice and shall request that the jurisdiction provide a certified statement as to whether or not there are or have been any disciplinary proceedings or unresolved complaints pending against the applicant, or whether the applicant has engaged in any of the acts or offenses that would be grounds for disciplinary action under this chapter. In the event that a disciplinary proceeding or unresolved complaint is pending, the applicant shall not be issued a permit until the proceeding or complaint has been resolved. Applicants for permits to practice in this State shall be deemed to have given consent to the release of such information and to waive all objections to the admissibility of such evidence.

§ 110. Requirements for permits to practice public accountancy.

(b) Permits shall be issued and renewed for periods of 2 years. ~~The Board shall grant or deny any application for issuance or renewal of a permit no later than 120 days after the application is filed in proper form. In any case, where the applicant seeks the opportunity to show that issuance or renewal of a permit was mistakenly denied, or where the Board is not able to determine whether a permit should be granted or denied, the Board may issue to the applicant a provisional permit, which shall expire 90 days after its issuance or when the Board determines whether or not to issue or renew the permit for which application was made, whichever shall first occur.~~

(c) An applicant for initial issuance of a permit under this section shall show that the applicant:

(1) ~~Meets the requirements of § 107(a)(1) of this title;~~ Has not been convicted of a crime that is substantially related to the practice of accountancy; however, after a hearing or review of documentation demonstrating that the

applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (b) of this Section, if it finds all of the following:

a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

c. The applicant is capable of practicing accountancy in a competent and professional manner.

d. The granting of the waiver will not endanger the public health, safety or welfare:

(2) Holds, at a minimum, an associate degree, conferred by an accredited college or university, or a degree from an accredited 2-year college with a concentration in accounting, or what the Board determines to be substantially the equivalent of such concentration;

(3) Has passed either all parts of the examination recognized by the National Society of Public Accountants or both the Financial Accounting and Reporting (FAR) and Auditing and Attestation (AUD) portions of the Uniform Certified Public Accountant Examination;

~~(4) Has passed the AICPA self-study course and examination in professional ethics with a score as determined by Board rule to be appropriate.~~ Has successfully passed the AICPA self-study course and examination in professional ethics; and

(d) An applicant for renewal of a permit under this section shall show that the applicant has completed no less than 80 hours of continuing professional education ~~in accordance with Board guidelines as determined by Board rule~~ during the 2-year renewal period that has elapsed since the last biennial renewal date. ~~Prorated continuing professional education requirements consisting of no less than 40 hours are to be met by an applicant whose initial permit was issued less than 2 years and at least 1 year prior to the renewal date. No continuing professional education is required of an applicant whose initial permit was issued less than 1 year prior to the renewal date. The Board may also provide by regulation that fulfillment of continuing professional education requirements of other states will be accepted in lieu of the foregoing requirements; provided, that such other states require at least 80 hours in a 2-year period. If an applicant's initial permit to practice was issued less than two years prior to the renewal date, the applicant must fulfill the following continuing professional education requirements:~~

(1) No continuing education requirement if initial permit was issued less than one year prior to the renewal date; or

(2) A prorated continuing professional education requirement of 40 hours as determined by Board rule if initial permit was issued one year or more, but less than two years, prior to the renewal date.

(e) No new permits to practice public accountancy shall be issued after December 31, 2016. Applications for reciprocal public accountant permits to practice will be accepted from public accountants who hold an active public accountant permit in good standing in another jurisdiction and who relocate to Delaware and identify Delaware as their primary residence. The Board may, by rule, require continuing education as a condition to issuance of the reciprocal permit.

§ 111. Requirements for permits to practice by firms.

(a) Each firm ~~which maintains~~ with an office in this State and which intends to be or is engaged in the practice of certified public accountancy or the practice of public accountancy in this State shall be required to obtain and maintain a valid permit to practice. The Board shall grant or renew permits to firms that make application and demonstrate their qualifications in accordance with this section.

(b) A firm that does not have an office in this State may engage in the practice of certified public accountancy in this State through an individual practicing pursuant to the practice privilege afforded by § 109 of this title without obtaining a permit under this section or otherwise notifying the Board.

~~(b) (c) Permits shall be renewed biennially. The Board shall grant or deny any application for issuance or renewal of a permit no later than 120 days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a permit was mistakenly denied or where the Board is not able to determine whether it should be granted or denied, the Board may issue to the applicant a provisional permit, which shall expire 90 days after its issuance or when the Board determines whether or not to issue or renew the permit for which the application was made, whichever shall first occur.~~

~~(e) (d)~~ An applicant for initial issuance or renewal of a CPA firm permit to practice ~~certified public accountancy~~ under this section shall be required to show that:

(1) Notwithstanding any other provision of law, a simple majority of the ownership of the firm, in terms of financial interests and voting rights, of all partners, officers, shareholders, members or managers, belongs to holders of a CPA certificate, CPA permit, or CPA license who are licensed in some state. All partners, officers, shareholders, members or managers, whose principal place of business is in this State, and who perform certified public accounting services in this State hold a valid permit to practice under § 108 of this Title, or the corresponding provision of prior

law. Although firms may include non-licensee owners, the firm and its ownership must comply with applicable rules promulgated by the Board.

(2) Any certified public accounting firm as defined in this title may include non-licensee owners provided that

a. The firm designated a permit holder of this State who is responsible for the proper registration of the firm and identifies that individual to the Board.

b. All non-licensee owners are active individual participants in the certified public accounting firm or affiliated entities.

c. The firm complies with such other requirements as the Board may impose by rule.

~~each principal who performs services in this State, or who performs services for a client or clients located in this State, and each employee holding a certificate who performs services in this State, or who performs services for a client or clients located in this State, except for employees who have not as yet accumulated sufficient experience to qualify for a permit under § 107 of this title, holds a valid individual permit to practice certified public accountancy issued under § 107 of this title or qualifies for the practice privilege under § 108 of this title.~~

~~(d)(e) An applicant for initial issuance or renewal of a PA firm permit to practice public accountancy under this section shall be required to show that: each principal who performs services in this State, or who performs services for a client or clients located in this State, and each employee who performs services in this State, or who performs services for a client or clients located in this State, except for employees who have not as yet met the requirements to qualify for a permit under § 110 of this title, holds a valid individual permit to practice.~~

(1) Notwithstanding any other provision of law, a simple majority of the ownership of the firm, in terms of financial interests and voting rights, of all partners, officers, shareholders, members or managers, belongs to holders of permits to practice under § 110 of this title. All partners, officers, shareholders, members or managers, whose principal place of business is in this State, and who perform public accounting services in this state hold a valid permit to practice under § 110 of this title. Although firms may include non-licensee owners, the firm and its ownership must comply with applicable rules promulgated by the Board.

(2) Any public accounting firm as defined in this title may include non-licensee owners provided that

a. The firm designated a permit holder of this State who is responsible for the proper registration of the firm and identifies that individual to the Board.

b. All non-licensee owners are active individual participants in the public accounting firm or affiliated entities.

c. The firm complies with such other requirements as the Board may impose by rule.

~~(e)~~ (f) For purposes of this section, the employees of a public accounting firm with its principal office or offices outside of this State must obtain a permit for those employees who work in excess of 80 hours in this State or who work for a client or clients located in this State. However, any firm which is engaged to practice ~~certified public accountancy or~~ public accountancy in this State, for even 1 hour, is required to obtain a permit. Every principal of a public accounting firm who is responsible for the accounting work in this State shall obtain an individual permit to practice under § 110 of this title.

~~(f)~~ (i) An applicant for initial issuance or renewal of a permit to practice under this section shall be required to register each office of the firm within this State with the Board and to ~~show~~ affirm that all attest and compilation services rendered in this State are that each such office is under the charge of a person holding a ~~valid~~ an active permit to practice issued under this chapter or qualifies for the practice privilege under § ~~108~~ 109 of this title.

~~(g)~~ Each holder of or applicant for a permit under this section shall notify the Board in writing, within 30 days after its occurrence, of any change in the identities of principals who work regularly within this State, of any change in the number or location of offices within this State, of any change in the identity of the persons supervising such offices and of any issuance, denial, revocation or suspension of a permit issued by any other State to the firm or to any principal or employee regulated by this Board.

~~(h)~~ A firm that does not maintain an office in this State may engage in the practice of certified public accountancy in this State through an individual practicing pursuant to the practice privilege afforded by § 108 of this title without obtaining a permit under this section or otherwise notifying the Board.

(j) An applicant for initial issuance or renewal of permits under this Section shall in their application list all states in which they have applied for or hold permits as CPA firms and list any past denial, revocation or suspension of a permit by any other state, and each holder of or applicant for a permit under this Section shall notify the Board in writing, within 30 days after its occurrence, of any change in the identities of partners, officers, shareholders, members or managers whose principal place of business is in this State, any change in the number or location of offices within this State, any change in the identity of the persons in charge of such offices, and any issuance, denial, revocation or suspension of a permit by any other state.

(k) An applicant for initial issuance or renewal of permits under this Section shall in their application list all states in which they have applied for or hold permits as PA firms and list any past denial, revocation or suspension of a permit by any other state, and each holder of or applicant for a permit under this Section shall notify the Board in writing, within 30 days after its occurrence, of any change in the identities of partners, officers, shareholders, members or managers whose principal place of business is in this State, any change in the number or location of offices within this State, any change in

the identity of the persons in charge of such offices, and any issuance, denial, revocation or suspension of a permit by any other state.

(l) Firms which fall out of compliance with the provisions of this section due to changes in ownership or personnel, after receiving or renewing a permit, shall take corrective action to bring the firm back into compliance within 60 days. Failure to bring the firm back into compliance within 60 days will result in the suspension or revocation of the firm permit.

(m) Effective July 1, 2017, the Board shall by rule require as a condition to renewal of permits under this Section, that firms that provide attest and/or compilation services be enrolled in a Board-approved peer review program and comply with the applicable standards and guidance of that program, provided that any such rule:

(1) shall be promulgated reasonably in advance of the time when it first becomes effective;

(2) shall include reasonable provision for compliance by a firm showing that it has, within the preceding three years, undergone a peer review. Such compliance requirement shall first be effective for the renewal period ending June 30, 2019; and

(3) shall require, with respect to any organization administering peer review programs, that it be subject to evaluations by the Board or its designee, to periodically assess the effectiveness of the peer review program under its charge.

§ 112. Professional responsibilities.

While § 111(a) of this title requires firms to obtain permits to practice, and § ~~102(6)~~ 102(10) of this title defines “firm” to include valid partnerships and corporations, this chapter shall not be interpreted to alter professional responsibility standards. All firms and accountants practicing in firms shall continue to be bound by professional responsibility standards no less stringent than those stated in § 608 of Title 8.

§ 113. Examinations.

The Board may, by regulation, prescribe the terms and conditions for granting credit to a candidate for a ~~certificate or an applicant for a permit to practice~~ certified public accountancy or an applicant for a permit to practice public accountancy based on the candidate's or applicant's satisfactory completion of ~~a written~~ an examination in any ~~1~~ one or more of the subjects of the Uniform Certified Public Accountant Examination, the examination recognized by the National Society of Public Accountants and any written examination in any other subject or subjects given by the Board or by the licensing authority in any other jurisdiction.

~~§ 114. Waiver of Examination.~~ [Reserved.]

The Board may waive the examination of and issue a certificate and permit to practice to any person possessing qualifications equivalent to those set forth in § 107(a) of this title who, at the time of application:

(1) Is engaged full-time in the practice of certified public accountancy in this State; and

(2) Is the holder of a certificate under the laws of another jurisdiction; provided, that the requirements for such certificate in the jurisdiction which has granted it to the applicant are, in the opinion of the Board, comparable to those provided in this chapter or is the holder of a currently valid certificate, license or degree of a foreign country constituting a recognized qualification for the practice of public accountancy in such country, which in the opinion of the Board, is comparable to that of a certified public accountant of this State.

§ 116. Complaints.

(a) The Board or any aggrieved person may file a complaint against any individual or firm holding a permit to practice or any certificate holder. All complaints shall be received and investigated by the Division in accordance with 29 Del. C. § 8735 of Title 29, and the Division shall be responsible for issuing a final written report at the conclusion of its investigation. The Division may refer a complaint against an individual practicing under ~~§ 408~~ § 109 of this title to the state of licensure for handling.

(b) When it is determined that an individual or firm is engaged in the practice of certified public accountancy or public accountancy without having first obtained the appropriate permit, the Board shall apply to the ~~office of the Attorney General~~ Division of Professional Regulation to issue a cease and desist order, ~~after formally warning the individual or firm in accordance with the provisions of this chapter.~~

(c) Any complaints involving allegations of unprofessional conduct or incompetence shall be investigated by the Division of Professional Regulation.

§ 117. ~~Grounds for discipline.~~ Unprofessional Conduct.

§ 118. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions or take any of the following actions, singly or in combination, when it finds that ~~1~~ one or more of the conditions or violations set forth in § 117 of this title applies to a certificate or permit holder or to an individual or firm with practice privileges under ~~§ 408~~ § 109 of this title:

(2) Censure the certificate or permit holder or individual or firm with practice privileges under ~~section § 408~~ § 109 of this title;

(6) Impose a fine of up to ~~\$5,000~~ \$10,000 for each offense, at the discretion of the Board; and/or

(7) Require the certificate or permit holder or practice privilege holder or firm to reimburse the Division for the cost of the investigation, including but not limited to, legal assistance, public hearings, materials, human

resources, contractual assistance and appropriate salary and overtime pay for all state employees involved
notwithstanding merit system laws or regulations to the contrary.

(b) The Board may refuse or reject an applicant for a ~~certificate~~ permit to practice if, after a hearing, the Board finds that an applicant has misstated or misrepresented a material fact in connection with the applicant's application; has violated any section of the AICPA Code of Professional Conduct ~~for Accountants~~; or practiced public accountancy or certified public accountancy without being registered in accordance with this chapter.

(d) Upon an application (or petition), in writing, and after notice and a hearing, the Board may issue a new ~~certificate or a permit to practice~~ or a practice privilege to a person or firm whose certificate or permit or practice privilege has been revoked or suspended or modify the terms of any suspension.

§ 119. Board hearings; procedures.

(a) If a complaint is filed with the Board pursuant to 29 Del. C. § 8735 of Title 29, alleging violation of § 117 ~~of this title~~, the Board shall set a time and place to conduct a hearing on the complaint. Notice of the hearing shall be given and the hearing conducted in accordance with this chapter, 29 Del. C. § 8735 of Title 29 and the Administrative Procedures Act, 29 Del. C., Chapter 101 of Title 29.

(b) ~~All hearings shall be informal, without use of rules of evidence. If the Board finds, by a majority vote of all members, that the complaint has merit, the Board shall take such action permitted under this chapter as it deems necessary. The Board's decision shall be in writing and shall include its reason for such decision. A copy of the decision shall be mailed by registered mail immediately to the complainant and to the individual or firm. Upon reaching its conclusion of law and determining an appropriate sanction, if any, the Board shall issue a written decision and order in accordance with 29 Del. C. § 10128. The order must restate the factual findings, but need not summarize the evidence presented. The decision and order may be issued over the signature of only the President or other officer of the Board. The decision and order must be sent by certified mail, return receipt requested, to the subject of the complaint.~~

~~(c) Any person or firm affected by any action of the Board may appeal the Board's decision to the Superior Court within 30 days of receipt of the Board's decision or of the postmarked date of the copy of the decision mailed to such person or firm. Upon such appeal, the Court shall hear the evidence on the record. Stays shall be granted in accordance with § 10144 of Title 29.~~

§ 121. Violations; penalties.

(a) Where the Board has determined, upon notice and hearing pursuant to 29 Del. C., Chapter 101 of Title 29, that a person is engaged in the practice of certified public accountancy or public accountancy, or is representing himself or herself to the public as the recipient of a certificate or permit, or is holding himself or herself out as being authorized to

527 practice certified public accountancy or public accountancy, without having lawfully obtained a certificate or permit, or
528 without having a practice privilege under ~~§ 108~~ § 109 of this title, or otherwise wrongfully uses such title or any similar
529 title to practice certified public accountancy or public accountancy, or continues to practice certified public accountancy or
530 public accountancy after the revocation or suspension of a practice privilege in this State or after the revocation, suspension
531 or expiration of a certificate or permit from this State or another state, the Board may ~~issue a cease and desist order. In~~
532 ~~addition to the power to issue a cease and desist order, the Board may seek an injunctive order prohibiting such unlawful~~
533 ~~practice and/or seek the imposition of other civil penalties defined by this chapter. apply to the Division of Professional~~
534 Regulation to issue a cease and desist order.

535 (b) Where the Board has determined, upon notice and hearing pursuant to 29 Del. C., Chapter 101 of Title 29, that
536 a firm is improperly holding itself out as being authorized to practice certified public accountancy or public accountancy,
537 the Board may ~~issue a cease and desist order. In addition to the power to issue a cease and desist order, the Board may seek~~
538 ~~an injunctive order prohibiting such unlawful practice and/or seek the imposition of other civil penalties defined by this~~
539 ~~chapter. apply to the Division of Professional Regulation to issue a cease and desist order.~~

540 (c) ~~Upon notice and hearing pursuant to Chapter 101 of Title 29, the Board may fine any person who violates such~~
541 ~~cease and desist order not less than \$500 or more than \$1,000, and any firm that violates such cease and desist order not less~~
542 ~~than \$2,000 or more than \$5,000. Each day a violation continues may be deemed a separate offense in the Board's~~
543 ~~discretion.~~

544 § 122. Status of existing certificates preserved.

545 (a) Any person legally authorized to practice as a certified public accountant in this State as of July 1, 1985, shall
546 thereafter possess the same rights and privileges as persons to whom ~~certificates of permits to practice~~ certified public
547 ~~accountant~~ accountancy shall be issued pursuant to this chapter, subject, however, to the power of the Board, as provided in
548 this chapter, to suspend or revoke the certificate and/or permit to practice of such person or censure or reprimand such
549 person for any of the causes set forth in this chapter.

550 (b) ~~Any person who has successfully passed the Uniform Certified Public Accountant Examination under this~~
551 ~~chapter and regulations of the Board in effect on or before June 30, 1985, who has not been issued a certificate because of~~
552 ~~not having met the experience requirements of such prior law and regulations shall be granted such certificate upon~~
553 ~~submitting an appropriate application to the Board and the Board having approved such application as meeting the~~
554 ~~applicable requirements.~~

555 (e) (b) Any person who holds a valid certificate issued under this chapter and regulations of the Board in effect on
556 or before June 30, 1985, shall be deemed to have sufficient education and experience to satisfy the experience requirement
557 of § 107(a)(5)(c) of this title.

558 ~~(d) Any person who has applied to take the Uniform Certified Public Accountant Examination listing Delaware as~~
559 ~~the state of application prior to January 1, 2006, shall be granted a certificate under the prior law and regulations upon~~
560 ~~submitting an appropriate application to the Board and the Board having approved such application as meeting the~~
561 ~~applicable requirement as of December 31, 2005.~~

SYNOPSIS

This Act updates the Delaware Code relating to the Board of Accountancy by modernizing the current accountancy licensing standards using the Uniform Accountancy Model Act language as jointly drafted by the National Association of State Boards of Accountancy and the American Institute of Certified Public Accountants as a framework.

This Act also makes a greater distinction between a CPA who passed the CPA exam only and a CPA who passed the CPA exam, met the experience requirements, and received a permit to practice. This provides the public with the significant distinction between a CPA who is a certificate holder only, and a CPA who is a permit holder. It also provides for a peer review for those accounting firms that perform attest services as a requirement for permit renewal as a mechanism to ensure practice competency.

Author: Senator Poore

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