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Original: 2056



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

October 11, 2000

COMMITTEES

PROFESSIONAL LICENSURE,
MAJORITY CHAIRMAN
LIQUOR CONTROL
FIREFIGHTERS' CAUCUS,
COCHAIRMAN EMERITUS

John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
333 Market Street
Harrisburg, PA 17101

Dear Chairman McGinley:

I am writing to inform you that the House Professional Licensure Committee held a meeting on October 11, 2000, and voted to approve Regulation 16A-5113, State Board of Nursing; Regulation 16A-556, State Board of Accountancy; Regulation 16A-560, State Real Estate Commission; Regulation 16A-558, State Board of Accountancy; Regulation 16A-600, State Board of Vehicle Manufacturers, Dealers and Salespersons; and Regulation 16A-626, State Board of Examiners of Nursing Home Administrators.

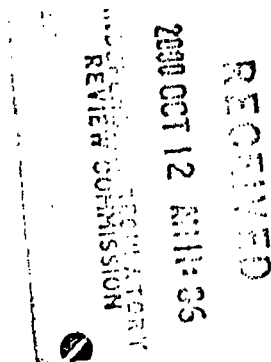
Please feel free to contact my office if any questions should arise.

Sincerely,

Mario J. Civera, Chairman
House Professional Licensure Committee

MJC/sms
Enclosures

cc: K. Stephen Anderson, CRNA, Chairman
State Board of Nursing
Thomas J. Baumgartner, CPA, Chairman
State Board of Accountancy
Joseph Tarantino, Jr., Chairman
State Real Estate Commission
Robert G. Pickerill, Chairman
State Board of Vehicle Manufacturers, Dealers and Salespersons
Robert H. Morrow, Chairman
State Board of Examiners of Nursing Home Administrators
Honorable Kim H. Pizzingrilli, Secretary of the Commonwealth
Department of State



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REGULATORY
REVIEW COMMISSION



Regulation 16A-556

State Board of Accountancy

PROPOSAL: Regulation 16A-556 amends 49 PA Code, Chapter 31, regulations of the State Board of Accountancy. The amendments would add Sections 11.81-11.86 to current regulations to implement Section 8.9 of the CPA Law, 63 P.S. Sec. 9.8i, which was added by the Act of December 4, 1996, P.L. 851 (Act 140 of 1996). The provision requires licensed public accounting firms and sole practitioners to undergo a peer review as a condition of license renewal.

Regulation 16A-556 is Final Rulemaking which was delivered to the Professional Licensure Committee on September 25, 2000. The Professional Licensure Committee has until October 15, 2000, to approve or disapprove the regulation.

ANALYSIS: New Section 11.81 defines "Administering organization" as an entity that meets the standards specified by the Board for administering a peer review program. "Firm" is defined as a licensee who is a sole practitioner or a qualified association as defined in Section 2 of the act, 63 P.S. Sec. 9.2. "Peer reviewer" is defined as an individual who conducts an on-site or off-site peer review, including an individual who serves as captain of an on-site peer review team. In the final rulemaking package, definitions have been added for "audit engagement," "offsite peer review," "onsite peer review," "review engagement" and "sole practitioner."

New Section 11.82 lists the effective dates for peer review compliance, and what must be provided to the Board for proof of compliance or exemption. As originally proposed, the Board's regulatory schedule for peer review compliance was in conflict with the Committee's interpretation of the effective dates for peer review compliance as set forth in Act 140. The Committee commented extensively on this issue, citing documentation that the legislative intent was for the peer review provisions to begin on May 1, 2000, for firms that perform audit engagements after May 1, 1998, and May 1, 2004, for firms that perform review engagements but not audit engagements after May 1, 1998. The Committee maintained that this date was not the deadline for peer review compliance as asserted by the Board. The Board has revised Sec. 11.82 to reflect the Committee's interpretation of the Act.

Pursuant to revised Sec. 11.82, a firm that performs an audit engagement after May 1, 1998, must complete an onsite peer review before the license biennium that begins May 1, 2002. A firm that performs a review engagement but not an audit engagement after May 1, 1998, must complete an offsite peer review before the license biennium that begins May 1, 2006. As proof of a firm's

completion of peer review, a letter from the peer review administering organization must be submitted with the firm's application for initial licensure or license renewal. A firm claiming an exemption under Section 8.9(g) of the act must submit with its application information that substantiates its entitlement to an exemption. Sec. 11.82(d) specifically sets forth the documentation required when claiming an exemption from peer review under Subsections 8(g)(1), (2) or (3) of the Act.

New Section 11.83(a) lists the organizations which the Board deems qualified to administer peer review programs. These include the Securities and Exchange Commission Practice Section and the Private Companies Practice Section of the American Institute of Certified Public Accountants (AICPA), and any organization of licensed certified public accountants (CPA) or licensed public accountants (PA) that participates in the AICPA Peer Review Program. Sec. 11.83(b) sets forth the criteria the Board will consider in granting approval to serve as an administering organization if an organization does not otherwise qualify under 11.83(a). Sec. 11.83(c) would prohibit an administering organization from requiring a firm being reviewed to become a member of the organization as a pre-condition for peer review.

New Section 11.84 provides that a peer review shall be conducted in accordance with the AICPA's "Standards for Performing and Reporting on Peer Reviews," including interpretations thereof.

New Section 11.85 sets forth the qualifications for peer reviewers. A peer reviewer shall be a licensed CPA or PA who is enrolled in a peer review program and who possesses the qualifications set forth in the AICPA's "Standards for Performing and Reporting on Peer Reviews," including interpretations. The administering organization must ensure that its peer reviewers are qualified. A peer reviewer must be independent from and have no conflict of interest with the firm being reviewed.

New Section 11.86 provides that all peer review reports and related information shall remain confidential except as provided in Section 8.9(e) and (h)(3) of the act. Section 8.9(e) relates to procedures to be followed if a firm fails to comply with any remedial actions determined to be appropriate by the peer review administering organization. Section 8.9(h)(3) list three exceptions to the confidentiality privilege. These are: (i) For information presented or considered in the peer review process that was otherwise available to the public; (ii) For material not prepared in connection with a peer review merely because they subsequently are presented or considered as part of the peer review process; and (iii) In connection with an administrative proceeding or related civil action brought for the purpose of enforcing this section. The Board also has the right to inquire of an administering organization whether a peer review report has been accepted.

RECOMMENDATIONS: It is recommended that the Professional Licensure Committee approve the regulation.

House of Representatives
Professional Licensure Committee
September 29, 2000

ROBERT W. GODSHALL, MEMBER
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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

TOURISM AND RECREATIONAL
DEVELOPMENT
MAJORITY CHAIRMAN

GAME AND FISHERIES
INSURANCE
LEGISLATIVE BUDGET AND FINANCE

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Original: 2056
Mizner
cc:

Sandusky
Smith
Wilmarth
MEMORANDUM
McGinley
Legal, Notebook

FORTHCOMING
Nyce
Sandusky
Gelnett

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G

TO: PA. Independent Regulatory Review Commission
ATT: Kimberly deBien, Regulatory Analysis

FROM: Karin A. Janusewski
Legislative Assistant to
Rep. Robert W. Godshall

DATE: March 15, 1999

RE: Response to constituent inquiry regarding new peer reviews.

I am enclosing the letter I received at my district office pertaining to a conflict of information he is receiving from the State Board of Accountancy and the actual law (ACT 140).

I would appreciate any information as to the correct dates of the specific requirements of peer reviews.

If you have any questions please do not hesitate to contact me or my legislative assistant, Karin at 215-368-3500.

FAX'D 4/13 BOARD LETTER
TO CHAIRMAN COVERA TO
KARIN ON 4/23

Original: 2056
Mizner
cc: Sandusky
Smith
Wilmarth
Legal



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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
P.O. BOX 2649
HARRISBURG, PA 17105-2649

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STATE BOARD OF ACCOUNTANCY
REVIEW COMMISSION

STATE BOARD OF ACCOUNTANCY

Telephone: (717) 783-1404
Fax: (717) 705-5540
www.dos.state.pa.us

April 13, 1999

The Honorable Mario J. Civera, Jr.
Majority Chairman
Professional Licensure Committee
Pennsylvania House of Representatives
315-D Main Capitol Building
Harrisburg, PA 17120

FORTHCOMING

Nyce
Sandusky
Gelnett

Handwritten signatures of Nyce, Sandusky, and Gelnett, each on a separate line.

Dear Representative Civera:

I am writing in response to your letter of March 23, 1999, in which you questioned the State Board of Accountancy's interpretation of the CPA Law regarding the deadlines for peer review compliance.

As you point out in your letter, the Board recently notified licensees in its newsletter that May 1, 2000, the start of the next biennial license period, is the deadline for peer review compliance for non-exempt licensees who perform audit engagements after May 1, 1998, while May 1, 2004, is the compliance deadline for non-exempt licensees who perform review engagements but not audit engagements after May 1, 1998. You state that these deadlines appear to conflict with Section 8.9(1)(2) of the CPA Law, which provides:

"This section [relating to peer review] shall not become applicable to firms and no firm shall be required to undergo a peer review under this section until May 1, 2000, except that this section shall not become applicable until May 1, 2004, to a firm that has not accepted or performed any audit engagements during the period May 1, 1998, through April 30, 2004."

The Board, however, is basing its interpretation on Section 8.8(c) of the CPA Law, which provides:

"An initial or renewal license shall not be issued to a firm after April 30, 2000, unless the firm complies with the requirements of Section 8.9 of this act [relating to peer review]."

As you know, Sections 8.9(1)(2) and 8.8(c) were added to the CPA Law as part of sweeping amendments set forth in House Bill 1172, which eventually passed as Act 140 of 1996. The Board had been advised by the Pennsylvania Institute of Certified Public Accountants,

April 13, 1999

Page 2

which drafted House Bill 1172, as well as by Representative Howard L. Fargo, the bill's prime sponsor, that the intent of the legislation was to require peer review compliance for non-exempt licensees performing audit engagements and those performing review engagements by May 1, 2000, and May 1, 2004, respectively. It was also the Board's understanding that information about these compliance deadlines had been widely disseminated by the PICPA prior to the notice that appeared in Board's newsletter. I have enclosed for your review copies of letters from Representative Fargo and Albert E. Trexler, the PICPA's executive director, on the subject of deadlines for peer review compliance.

The Board is aware of its need to promulgate regulations in connection with peer review. The Board has shared exposure drafts of its peer review regulations with the PICPA and the Pennsylvania Society of Public Accountants, soliciting their input. I have enclosed for your review a copy of the Board's final exposure draft. The Board intends to publish proposed regulations before the end of spring and to complete final rulemaking by the fall.

Because of the widespread publicity about the upcoming compliance deadlines for peer review, as well as the large number of licensees who currently participate in voluntary peer review programs, the Board believes that the majority of non-exempt licensees subject to the compliance deadline of May 1, 2000, either have already completed a peer review or have made arrangements to complete a timely peer review. For those non-exempt licensees who, for good cause, are unable to complete a peer review by the May 1, 2000, deadline, the Board is prepared to grant extensions of up to 12 months as authorized by Section 8.9(g)(3) of the CPA Law.

If you should desire more information about the peer review compliance deadlines or the peer review regulations generally, I would be happy to meet with you at your convenience.

Sincerely,



Thomas J. Baumgartner, CPA
Chairman, State Board of Accountancy

TJB/SW
Enclosures

cc: The Honorable Clarence D. Bell, Chairman
Senate Consumer Protection and Professional Licensure Committee

The Honorable Howard L. Fargo, State Representative

The Honorable Kim Pizzigrilli, Secretary of the Commonwealth

David Williams, Special Assistant/Legislative Liaison
Department of State

The Honorable Dorothy Childress, Commissioner
Bureau of Professional and Occupational Affairs

Albert E. Trexler, Executive Director
Pennsylvania Institute of Certified Public Accountants

HOWARD L. FARGO
MAJORITY CAUCUS CHAIRMAN

RULES COMMITTEE

CHAIRMAN
LEGISLATIVE AUDIT
ADVISORY COMMISSION



HOUSE OF REPRESENTATIVES
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1-800-287-0085

October 28, 1998

Kevin M. Mitchell, CPA
Chairman
Pennsylvania State Board of Accountancy
P. O. Box 2649
Harrisburg, PA 17105-2649

Dear Mr. Mitchell:

The new CPA statute, Act 140 of 1996, provides for the peer review of certified public accountants (CPAs) and public accountants (PAs) in Pennsylvania. I understand that the State Board is currently considering regulations on peer review. As the prime sponsor of this legislation, which originated as House Bill 1782, I would like to discuss the intent of that legislation in regard to the timing of peer reviews.

As background, please be aware that the initial version of H.B. 1782 (Printer's Number 2207) required all licensed firms that performed any attest function to have completed a peer review by May 1, 2000.

Due to concerns raised by small accounting firms, however, I proposed the following compromise based on the level of attest activities, which now appears in Act 140. First, because firms which limit their practice to performing compilations do not provide assurances on these compilation engagements, I recommended that they be exempt from the peer review requirements. Second, because firms which perform reviews provide limited assurance on such engagements, I recommended that they not be required to complete a peer review until May 1, 2004. Finally, those firms which perform audits, which is the highest level of attest activity, would still be required to undergo a peer review by the originally planned date of May 1, 2000.

Page 2

My compromise proposal, as I recall, was accepted and agreed to by the House Professional Licensure Committee on April 9, 1996. I support the proposed draft regulations which the State Board of Accountancy has sent to interested parties and request that the starting dates for peer review be retained when the Board publishes proposed regulations in the *Pennsylvania Bulletin*.

Thank you for considering my views on this subject of mutual interest. Should you have any further questions regarding interpretations of the CPA statute, Act 140 of 1996, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Howard L. Fargo".

Howard L. Fargo, CPA
State Representative
8th Legislative District

HLF:df