

**IRRC**

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**From:** Wennberg, Steven [swennberg@state.pa.us]  
**Sent:** Wednesday, March 24, 2004 5:20 PM  
**To:** IRRC  
**Subject:** FW: Comment on Regulation 16A-5510



CPAregLAW-Analys  
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2004 MAR 25 AM 7:09  
REGULATORY REVIEW ACT

> -----Original Message-----  
> From: Wennberg, Steven  
> Sent: Wednesday, March 24, 2004 04:57 PM  
> To: 'bnyce@irrc.state.pa.us'  
> Subject: FW: Comment on Regulation 16A-5510

> -----Original Message-----  
> From: Wennberg, Steven  
> Sent: Wednesday, March 24, 2004 04:55 PM  
> To: 'rnyce@irrrc.state.pa.us'  
> Subject: Comment on Regulation 16A-5510

> Mr. Nyce:

> This afternoon I received the attached e-mail from Kaushik K. Patel regarding Regulation #16A-5510, which is scheduled for a vote by IRRC tomorrow morning. Since Mr. Patel asked that I share his concerns with IRRC, I am forwarding his e-mail to your office for consideration as an embargoed communication under the Regulatory Review Act.

> Mr. Patel originally sat for the CPA examination prior to November 1990 and has received conditional credit for passing one or more parts of the examination. Under current Board regulations, a candidate who initially sat for the CPA examination prior to November 1990 is under no deadline to pass all parts of the examination. Regulation #16A-5510 will allow a candidate who initially sat for the examination prior to November 1990 to retain conditional credit as of the launch date of the computer-based CPA examination on April 5, 2004. Such candidate will be required to pass the remaining parts of the examination during the 18-month period that begins whenever the candidate next sits for the examination on or after April 5, 2004; if the candidate does not pass the remaining parts of the examination within the 18-month period, conditional credit for parts of the examination passed before April 5, 2004, will expire, and a candidate will be subject to regular completion requirements (i.e., completion of all four parts with an 18-month rolling period).

> Mr. Patel contends that establishment of a completion deadline for a candidate who intially sit for the examination prior to November 1990 violates Section 3.1(d) of the CPA Law, which provides: "An individual who has previously taken an examination for a certificate of certified public accountant under the provisions of a prior law of this Commonwealth shall continue to be permitted to take the examination and receive a certificate subject to such prior provisions and applicable regulations." The Board's interpretation of Section 3.1(d) is that it prevents the Board from denying a candidate the right to re-examination because of a statutory change in examination eligibility requirements that occurred after the candidate initially took the examination. The Board's completion deadline does not deny any previously approved examination candidate the right to re-examination.

The Office of Attorney General has approved Regulation #16A-5510 for legality.

>

> Steven Wennberg, Counsel  
> State Board of Accountancy

>

> -----Original Message-----

> From: Patel, Kaushik

> Sent: Wednesday, March 24, 2004 12:01 PM

> To: Wennberg, Steven

> Subject: Inconsistent Proposed Regulation - for Pre November, 1990 CPA Exam Candidates.

>

> Steve Wennberg:

>

> Thanks you for sending me the Preamble and the Annex as it relates to the proposed regulation (Reg No. 16A-5510) under the CPA Law of the Commonwealth of Pennsylvania. Attached is my analysis and rights I assert and provide comments; seeking the agency's consideration when promulgating the proposed regulation. You will note that the proposed regulation is inconsistent in its current format with the specific sections of the CPA Law and the Law mandates the agency to be consistent when promulgating the regulations. The CPA Law does provide that exam candidates continue to take CPA Exam under prior Law. All I am asking for is the right of a candidate to be asserted as provided by 63 P.S. Section 3.1 (d) " ...to take an exam ...under the provision of a prior law of this Commonwealth shall continue to be permitted to take examination and receive a certificate subject to such prior provisions and applicable regulations.">

>

> Please note that attached can be shared with IRRRC, Attorney General's Office or any other interested party. Please inform of the consideration given to exam candidates required to take exam under prior provision of the CPA Law.

>

> Thanks!

> Kaushik K. Patel

> > <<CPAregLAW-Analyses.doc>>

Section 3.1(d) of CPA Law (63 P.S. Section 3.1(d)), as amended on December 4, 1996, provides: "An individual who has previously taken an examination for a certificate of certified public accountant under the provisions of a prior law of this Commonwealth shall continue to be permitted to take the examination and receive a certificate subject to such prior provisions and applicable regulations."

This is a grandfathering provision applicable to individuals who had previously taken CPA exams under prior CPA Law. Neither Section 3.1 of CPA Law as of 1996 nor the prior CPA Law limited an individual's ability to take an exam nor it limited how many times an individual could take the exam.

Section 3(10) of the CPA Law (63 P.S. Section 3(10)) , as amended December 4, 1996, provides the agency "To adopt, promulgate and enforce such administrative rules and regulations not inconsistent with this act,..."

Naturally the above Section 3(10) of the CPA Law permits the agency to promulgate regulation so long as it is not inconsistent. Hence, it would seem that the current regulation (see following) does not limit the candidate who first set for an exam to a limit of how many exams an individual could take nor when one could take it. Such grandfathering provision should continue in the future since the CPA Law give candidates certain rights and the provisions apply to about 135 candidates or over 21% of the total candidates in Pennsylvania. Such grandfathering provision were promulgated since the exam was seen as difficult to pass compared to other types of exams. The agency promulgated regulations under the same CPA Law. The current regulation follows.

49 Pa. Code Section 11.16(b), regulation states:

"Prior to November 1, 1990:

- (1) An applicant approved for examination shall continue to sit for all parts of the examination which the applicant has not already passed.
- (2) An applicant will be given credit for each part of the examination which the applicant passes unless the applicant scores less than 20% on any part of the examination, in which case the applicant will receive no credit.
- (3) An applicant will not be subject to a deadline for completing the examination."

A candidate passing parts of the CPA Exam under the current regulation would retain credit indefinitely if all of the provisions were met, referred to as conditional credit. Currently there are four parts to pass in total, under the Uniform CPA Exam. As you can see the conditional credit earned would never expire, nor there is or was a time limit under which to take the remaining parts of the CPA Exam, so long as one maintained 20% on the remaining parts. As you can see the current regulation does provide that there will not be a deadline for completing the CPA Exam, see specifically 49 PA Code Section 11.16(b)(3).

Under the proposed rulemaking (IRRC No.2390/Reg No. 16A-5510) Section 11.16(b) states that: "Except as provided in subsections (c) and (d), an examination candidate shall pass all parts of the examination during a rolling 18-month period that begins on the date the candidate first passes one part of the examination. If the candidate does not pass all parts of the examination within the 18-month period, conditional credit for any part passed outside the 18-month period will expire, and the candidate shall retake that part of the examination."

As you can see, the proposed regulation is inconsistent with the CPA Law, as amended in 1996, for grandfathering provisions. The new regulations, however, brings in a national philosophy, at the expense of candidates, to enforce an 18 month rule within which a candidate must pass all of the remaining parts. Such 18 month rule is inconsistent with the CPA Law, as amended in 1996,

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since there is no grandfathering provision providing for the same exceptions granted under the CPA Law, as amended in 1996. The proposed regulation does restrict the passing of all parts within 18 months, and one would lose the conditional credits earned if all parts are not passed within the 18 months, making the proposed regulation inconsistent and onerous to candidates. The CPA Law, as amended in 1996, did not provide for the loss of conditional credits based on time element; once earned, one would continue to keep the conditional credits, and again did not impose a time limit.

Therefore, my request is to keep the current provision of 49 PA Code Section 11.16 (b), which in my view is more consistent with the CPA Law, where a candidate does not lose conditional credits if the candidate continues to meet the requirements of the same section. The presiding Legislature and the presiding Governor have graciously afforded a grandfathering provision to candidates and imposed on the agency to be consistent with CPA Law when promulgating regulations and has given specific rights to certain candidates. Candidates will lose the earned conditional credits under the proposed regulation within the 18 month rule, if the remaining parts are not passed. By the agency's own admission of facts provided in the Preamble attached to the proposed regulation, which stated that "Section 11.16(b) sets forth the current examination completion requirements for a candidate who initially took the examination before November 1, 1990. A candidate must initially sit for all parts of the examination and must continue to sit for all parts not passed. A candidate will receive credit for each part of the examination passed provided the candidate scored at least 20% on the parts not passed." the agency is aware of the candidate's rights and a candidate is not subject to a deadline for passing all parts of the examination. As you can see there are no deadlines and candidates must continue to receive credit without a deadline of 18 months. 18 month deadline is onerous and does not give consideration to the candidate's circumstances and denies a candidate from becoming a CPA. All I am asking for is the right of candidate to be asserted as provided by 63 P.S. Section 3.1 (d) "...to take an exam ...under the provision of a prior law of this Commonwealth shall continue to be permitted to take examination and receive a certificate subject to such prior provisions and applicable regulations." Hence, the agency must, and is required to afford candidates the same standing and be consistent with 63 P.S. Section 3.1(d) and 49 PA Code Section 11.16 (b) as they exist today.

Original: 2390

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*Pennsylvania Institute of  
Certified Public Accountants*

2004-5 11:04:49

March 3, 2004

Mr. John R. McGinley, Jr., Chairman  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harristown 2  
333 Market Street  
Harrisburg, PA 17101

**Re: CPA Examination Final Regulations #16-5510**

Dear Mr. McGinley:

Attached, for your information, are letters to the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee in support of the State Board of Accountancy Final (Proposed Omitted) Regulations #16-5510.

Please do not hesitate to contact me if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter N. Calcara". The signature is fluid and cursive.

Peter N. Calcara, Director  
Government Relations

cc: Francis Lison, Chair, State Board of Accountancy

Encls.



*Pennsylvania Institute of  
Certified Public Accountants*

RECEIVED  
2004 MAR -5 11:08 AM  
HARRISBURG, PA

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March 2, 2004

The Honorable Robert M. Tomlinson, Chair  
Consumer Protection and Professional  
Licensure Committee  
Senate of Pennsylvania  
365 Main Capitol Building  
Harrisburg PA 17120-3006

**Re: CPA Examination Final Regulations #16-5510**

Dear Senator Tomlinson:

On behalf of the Pennsylvania Institute of Certified Public Accountants (PICPA) and the 19,000 members we serve, we are writing in support of the State Board of Accountancy Final (Proposed Omitted) Regulations #16-5510. We urge immediate adoption of the regulations in order that a seamless transition to the new examination format can occur for Pennsylvania certified public accountant (CPA) candidates.

Effective April 5, 2004, the CPA examination adopted by the 54 licensing jurisdictions as the required examination for certification as a CPA will change from a paper-and-pencil examination to a computer-based examination. The proposed regulations adopt completion requirements for the new computer-based CPA examination and ensure that new examination candidates in Pennsylvania will be subject to the same examination completion requirements as CPA candidates in other states. Additionally, outdated and unnecessary regulations relating to examination administration under the old paper-and pencil examination are eliminated by this regulation.

The new four-part examination, with reorganized subject matter, will be administered at least 5 days a week during an examination window that consists of the first 2-months of each quarter, with no application deadlines. Depending upon the availability of the date, time and location selected, a candidate will be able to schedule an appointment with as little as 6 days' notice.

Access to the examination is enhanced by this rulemaking. A Pennsylvania candidate who satisfies Pennsylvania examination eligibility requirements will be able to take the computer-based examination at any of the approximately 300 Prometric test centers across the country, including the 10 locations in Pennsylvania. Until now, the examination had been administered only twice a year, in May and November, and in limited locations throughout the state.

The timeframe to complete the examination also changed. Candidates are required to pass all parts of the examination during a rolling 18-month period beginning on the date the candidate first passes one part of the examination. The regulation also adopts special completion requirements of an examination candidate who, as of April 5, 2004, retained conditional credit for passing parts of the paper examination.

Consistent with the model regulations developed by the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA), a candidate who has received partial credit for passing two or three parts of the paper-and-pencil CPA examination will have the same number of opportunities to complete the computer-based examination as would have been available under the previous rules. Under those rules, a candidate who does not pass all parts of the examination within 5 years, which is the equivalent of 10 examination opportunities because it was administered twice a year, must reapply as a new candidate and retake the entire examination.

For example, a candidate who initially took the paper-and-pencil examination in November of 1999 and received partial credit at that time will be granted one opportunity to pass remaining parts of the examination prior to November of 2004. Although the examination will be administered three times between April 5, 2004 and November 5, 2004, the candidate may only take advantage of one those examination windows. This is consistent with the total of 10 opportunities allowed under the old rules, since the 5 year period given to pass all parts of the examination would have already allowed 9 examination opportunities to complete the examination.

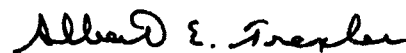
The fee for taking the complete, four-part computer-based examination has been increased to accommodate the more sophisticated testing method than the current paper-and-pencil examination. However, these fees compare favorably with the examination fees of other licensed professions in Pennsylvania, including medical doctors, dentists and architects.

Thank you in advance for your support. Please do not hesitate to contact Peter Calcara, PICPA Government Relations Director, with questions.

Sincerely,



William R. Lazor, CPA/PFS  
President



Albert E. Trexler, CAE  
Executive Director & CEO



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Certified Public Accountants*

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March 2, 2004

The Honorable Thomas Gannon, Chair  
Professional Licensure Committee  
House of Representatives  
49 East Wing  
Harrisburg, PA 17120

**Re: CPA Examination Final Regulations #16-5510**

Dear Representative Gannon:

On behalf of the Pennsylvania Institute of Certified Public Accountants (PICPA) and the 19,000 members we serve, we are writing in support of the State Board of Accountancy Final (Proposed Omitted) Regulations #16-5510. We urge immediate adoption of the regulations in order that a seamless transition to the new examination format can occur for Pennsylvania certified public accountant (CPA) candidates.

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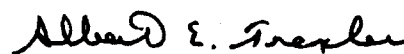
The fee for taking the complete, four-part computer-based examination has been increased to accommodate the more sophisticated testing method than the current paper-and-pencil examination. However, these fees compare favorably with the examination fees of other licensed professions in Pennsylvania, including medical doctors, dentists and architects.

Thank you in advance for your support. Please do not hesitate to contact Peter Calcara, PICPA Government Relations Director, with questions.

Sincerely,



William R. Lazor, CPA/PFS  
President



Albert E. Trexler, CAE  
Executive Director & CEO

cc: House Professional Licensure Committee