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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

May 4, 2005

Robert J. Ciaruffoli, Jr., CPA, Chairman
State Board of Accountancy
2601 North 3rd Street
Harrisburg, PA 17110

Re: Regulation #16A-559 (IRRC #2465)
State Board of Accountancy
Revision of and Deletion of Existing Regulations

Dear Chairman Ciaruffoli:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulation review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me at 783-5506.

Sincerely,

Mary S. Wyatt
Acting Executive Director/Chief Counsel

wbg

Enclosure

cc: Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Thomas P. Gannon, Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Pedro A. Cortes, Secretary, Department of State

Comments of the Independent Regulatory Review Commission

on

State Board of Accountancy Regulation #16A-559 (IRRC #2465)

Revision of and Deletion of Existing Regulations

May 4, 2005

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The State Board of Accountancy (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on April 4, 2005. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

1. General. – Consistency with statute; Reasonableness; Clarity.

Redundancy of provisions

The Board states in its Preamble that it is deleting numerous provisions found in 49 Pa. Code Chapter 11 because they are repeated verbatim from the CPA Law. The House Professional Licensure Committee (House Committee) has requested that the Board retain language found in the Act to facilitate ease of use by licensees. We agree with the House Committee and recommend that the Board retain the statutory language in the regulation, and if needed, update the regulation to reflect changes to the CPA Law. If the Board doesn't reinstate the statutory language, it should add cross-references in the regulation to the appropriate sections of the CPA Law.

Recognized standard setting bodies

In Section 11.21 (relating to independence) and Section 11.27 (relating to auditing standards and other technical standards), the Board lists a number of recognized public and private standard setting bodies that publish rules and regulations that a licensee must abide by. The House Committee has requested that the Board add the Public Company Accounting Oversight Board (PCAOB) to the list of standard setting bodies that the Board will recognize. It is our understanding that PCAOB was not in existence when the Board drafted this regulation. We concur with the House Committee and ask that the Board include PCAOB as a recognized standard setting body in the appropriate sections of the final-form regulation. Additionally, the Board should provide a definition of PCAOB in the definition section.

2. Section 11.1. – Definitions. – Consistency with statute; Clarity.

As discussed above, we recommend the Board repeat the statutory definitions found in the CPA Law or add a cross references to those definitions.

3. Section 11.5. – Temporary practice in this Commonwealth. – Consistency with statute; Reasonableness.

In Subsection (a), the Board is proposing to delete the phrase “or other jurisdiction of the United States.” Subsections (a)(1) and (a)(2) delete the phrase, “or jurisdiction.” By deleting this language, the Board will not allow licensed accountants from the District of Columbia to apply for temporary licenses. Was this the Board’s intent? If so, why?

4. Section 11.9. – Use of professional title solely as mark of achievement by individual without current license. – Consistency with statute; Protection of public welfare; Reasonableness.

The House Committee has expressed concerns that allowing the use of “CPA” as a professional title without the need to maintain a current license has the potential to mislead the public. We agree. As an example, Paragraphs (5)(ii) and (iii) state that an individual who is using CPA as a professional title may use “CPA” on business cards or letterhead and other stationery respectively. By contrast, Paragraph (5)(i) only allows a person to use CPA as a professional title solely on a resume or curriculum vitae “. . . when accompanied by language reflecting that the individual’s license is inactive.”

Should an individual who only wants to use “CPA” as a mark of professional achievement on a business card or letterhead be required to disclose that their license is inactive as is required by Paragraph (5)(i)?

5. Section 11.25. – Contingent fees. – Consistency with other regulations.

The Board states in the Preamble that it used the American Institute of Certified Public Accountants’ (AICPA) professional standards as the model for this section of the regulation. We understand that since the Board drafted this regulation, both the Securities and Exchange Commission and PCAOB have expressed concerns with the AICPA’s interpretations with regard to the use of contingent fees. Therefore, we recommend the Board reconsider the applicability of AICPA’s standards with regard to contingent fees.

6. Section 11.31. – Records. – Clarity.

The first sentence of this section, as found in the Board’s submittal of the proposed regulation, was not included in the March 5, 2005 edition of the *Pennsylvania Bulletin*. This error should be corrected in the final-form publication.

7. Section 11.55. – Experience requirements for CPA certification. – Consistency with statute; Reasonableness; Clarity.

Subsection (a)

This subsection lists the general requirements for candidates seeking to become qualified for the CPA examination. Section 4.1(c) of Act 140 of 1996 (Act) states that individuals sitting for the CPA examination for the first time after January 1, 2000, must complete their CPA experience requirements within 120 months after applying for certification. The Act also states in the same

section that individuals who took the CPA exam for the first time before January 1, 2000, do not have to adhere to the time requirements.

For the reasons stated in our first comment, the Board should include the time limitations found in Section 4.1(c) of the Act in the final-form regulation.

Subsection (b)

The Board is deleting “training sessions on the attest function” as part of the qualified experience in attest activities that an individual can acquire to satisfy the experience requirement for CPA certification. The Board should clarify that candidates for CPA certification who have participated in “training sessions on the attest function” before the effective date of this regulation will be able to count those hours toward part of their required qualified experience.

Section 11.56. – Supervisor of experience; verification. – Clarity.

The House Committee has recommended that the Board retain language in Subsection (c) that states, “A supervisor may not knowingly submit a false or inaccurate statement or willfully refuse to submit a verified statement when qualified experience has been acquired.” If the Board chooses to make this change in the final-form regulation, a cross-reference should also be included to the applicable penalties that may apply.

Facsimile Cover Sheet

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2005 MAY -4 PM 1:17
INDEPENDENT REGULATORY REVIEW COMMISSION

To: Suzanne Hoy
Agency: Department of State
Licensing Boards and Commissions
Phone: 7-2628
Fax: 7-0251
Date: May 4, 2005
Pages: 5

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Board of Accountancy regulation #16A-559 (IRRC #2465). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through Interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: *Suzanne Hoy* Date: 5/4/05