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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

October 19, 2011

Michael J. Menear, CPA, Chair
State Board of Accountancy
2601 North 3rd Street
Harrisburg, PA 17110

Re: Regulation #16A-5511 (IRRC #2902)
State Board of Accountancy
Continuing Professional Education

Dear Chair Menear:

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 regulatory 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.

Sincerely,

Fiona Wilmarth
Acting Executive Director
sfh
Enclosure

cc: Honorable Robert M. Tomlinson, Majority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Harry A. Readshaw, Minority Chairman, House Professional Licensure Committee
Honorable Julie Harhart, Majority Chairman, House Professional Licensure Committee
Honorable Carol Aichele, Secretary, Department of State
Robert A. Mulle, Esq., Office of Attorney General
Andrew Clark, Esq., Office of General Counsel

Comments of the Independent Regulatory Review Commission



State Board of Accountancy Regulation #16A-5511 (IRRC #2902)

Continuing Professional Education

October 19, 2011

We submit for your consideration the following comments on the proposed rulemaking published in the August 20, 2011 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Accountancy (Board) to respond to all comments received from us or any other source.

1. Section 11.1. Definitions – Consistency with statute.

The Board included several new definitions from Act 73 of 2008 (Act 73), but did not amend all of the definitions affected by this act. The House Professional Licensure Committee (HPLC) comments recommend that the regulation be amended to clarify the usage of the Act 73 definition of “attest activity.” The Pennsylvania Institute of Certified Public Accountants (PICPA) commented with the example that in Paragraph 11.63(a)(1) the word “attest” is used, but the definition of “attest activity” is not revised by this regulation.

We recommend that the Board include in the final-form regulation revisions to definitions to reflect Act 73. In addition, we suggest that, if the Board does not adopt the statutory definitions by reference, the Board should provide the regulated community the opportunity to review a draft of the amended definitions prior to submittal of the final-form regulation.

2. Section 11.62. CPE requirement for issuance of license; waiver or extension. – Consistency with statute; Need; Reasonableness; Clarity.

Minimum of 20 CPE hours each year

In Subsection (b), the Board requires an applicant to complete “a minimum of 20 CPE hours during each year of the 2-year period.” Under 63 P.S. §9.8b(b), a licensee is required to complete 80 hours of continuing education, but this provision of the statute does not include a minimum number of hours for each year. If a licensee completed 80 hours in the first year of the 2-year period, the licensee would meet the requirement of 63 P.S. § 9.8b(b). Why does the regulation impose a requirement to take another 20 hours in the second year to meet the regulation? This requirement would also foreclose the opportunity for a licensee to qualify for renewal if the licensee did not take any continuing education during the first year, but under the statute the licensee would still have a year to take the 80 hours during the second year. The

Board should either delete this requirement or explain the need for and reasonableness of this requirement.

Clarity

In Subsection (c), the HPLC commented requesting a change for clarity to the phrase “that still has a current expiration date.” We agree.

3. Section 11.63. CPE subject areas; relevance to professional competence. – Reasonableness; Need.

Paragraph (a)(5) states “the Board will accept CPE hours in specialized knowledge and applications until January 1, 2012.” The Board explains in the Preamble that specialized knowledge does not relate to the actual practice of public accounting and it believes the proper focus of CPE should be on fostering competency in the practice of public accounting. The HPLC commented on the need for flexibility in obtaining CPE hours for individuals practicing in various areas of the accounting field. PICPA commented that 40% of licensed Certified Public Accountants are no longer solely in public accounting. Both advocate removing the January 1, 2012 phase out of the specialized knowledge provision. The Board should further explain the reasonableness of and need to phase out CPE credit for specialized knowledge and applications.

4. Section 11.64. Sources of CPE hours. – Reasonableness; Need; Clarity.

Entry-level courses

The HPLC commented requesting an explanation of the Preamble which states that entry-level courses are specifically excluded when such language is not included in this section, as amended. We agree that existing Subparagraph (7)(iv) specifically excludes entry-level accounting courses, but we did not find this language in Section 11.64, as amended. The Board should explain why it did not include this exclusion in the amended Section 11.64.

2 hours of preparation time

The HPLC recommends that Paragraph (3)(i) be rewritten to improve clarity. We agree with the HPLC’s suggested language.

Authorship of articles, books and other publications

Under Subparagraph (4)(iii), CPE hours for authorship will not be awarded for publications that occur on or after January 1, 2012. The HPLC and PICPA commented in opposition to phasing out this provision. The Board should further explain why it is phasing out this provision.

5. Section 11.69a. Approval of CPE program sponsor. – Clarity.

The HPLC commented that Paragraph (b)(1) should use the word “or” in place of “and” to be consistent with Paragraph (2). We agree.

PICPA commented on this section questioning whether the regulation would recognize CPE affiliates of accredited colleges and universities. PICPA also asked that national and state recognized accounting organizations be exempt from the approval process. The Board should clarify the status of these CPE program sponsors.

6. Implementation procedure.

The HPLC commented on the effective date of this regulation and its effect on CPE hours completed by licensees. We ask the Board to explain how it will implement the regulation.

In addition, some of the dates in the regulation may expire before the final-form regulation becomes effective. Provisions that have dates in them include Sections 11.63(a)(5), 11.63(a)(7) and 11.64(4). The Board should review the dates used in the final-form regulation and explain how the implementation of these requirements is reasonable.

Facsimile Cover Sheet

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Fax: 7-0251
Date: 10/19/11
Pages: 5

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Board of Accountancy regulation #16A-5511 - (IRRC #2902). 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:

Date:

10-19-11