

NEWSLETTER

VERMONT BOARD OF PUBLIC ACCOUNTANCY

Secretary of State, Office of Professional Regulation

Topics in this newsletter include: Changes in Staff; Chairman's Report, Policy updates, Extensive Statutory Amendments; Proposed Changes to the Rules, etc.

Board Members

The members of the Vermont Board of Public Accountancy and their term expiration dates are as follows:

Jeffrey A. Graham, CPA, RPA, Chairman, Springfield, Vermont (12/03); Pamela J. Douglass, CPA, Brandon, Vermont (12/04); Lee M. Spivey, Jr., CPA, Manchester Center, Vermont (12/03); Claire LaVoie, CPA, North Hero, Vermont (12/04), and Cairn G. Cross, (public member), Hinesburg, Vermont (12/05).

Members are appointed by the Governor and serve until a successor is appointed.

Introduction

The Board of Public Accountancy is pleased to bring you its first Newsletter. This Newsletter contains information about changes to staff, statutory amendments, proposed rules as a result of the statutory changes, and other issues pertaining to this quickly changing field.

New Staff

The Board welcomes Carla Preston as its Unit Administrator. You may reach Ms Preston at (802) 828-2875; Fax: (802) 828-2465; or via E-mail: cpreston@sec.state.vt.us.

Patty Skinner is the Board's

Administrative Assistant. Ms Skinner may be reached at (802) 828-2837; Fax: (802) 828-2465; E-Mail: p Skinner@sec.state.vt.us
Our Web site is:
www.vtprofessionals.org

From the Chairman

In an effort to publish some of the more noteworthy items confronting our profession, the Board and Staff of the Office of Professional Regulation have published this first newsletter. Let us know if you have suggestions for future topics.

The State now licenses over 1000 CPA or RPA individuals and has registered over 275 firms.

One focus of mine since joining the Board has been to relay information to our licensees about our reporting requirements. Specifically, all licensees upon renewal have an obligation to report all types of attest engagements performed during the past 24 months to the Board. What constitutes an attest engagement is covered in many of our Rules or in AICPA Statements (SSARS 1 and 8, among others). Please review your files, of all types, to ensure that any financial statement provided to your clients (not including those attached to corporate or partnership income tax returns in a trial balance format) have been properly disclosed to the Board and subjected to either a Peer

Review or included in your Report review which will be performed by the Board members later this year. Types of engagements included in this area are: any statements similar in format to a balance sheet, income statement or cash flows report - regardless of the titles used - certifications to entities similar to VEDA, Rural Development, etc., agreed upon procedures, assembly reports, specified format personal financial statements, compilation, review and audit reports. In the previous two renewal periods we have seen very few of these engagements submitted for Board review.

Another program that the Board expects to resurrect, is the CPE random audit. CPE submittals will be reviewed for inappropriate duplication of courses during the two year renewal period. In addition, the Board will randomly select files for verification audits. It is important to note that CPE hours must be taken during the period ending June 30, 2003. If you are asking for CPE credits taken during July 2003 to count for the 2003 renewal you must request permission from the Board or Staff.

The Board has held its public hearing with regard to its revised rules and will soon submit its Final Proposed Rules to the Legislative Committee on Administrative Rules. The Final Proposed Rules will be posted on the Board's Web site. The Board anticipates an adoption date in July 2003.

Please note that the proposed rules include changes to CPE requirements (see Web site). Once adopted, the Board will post on its Web site, a form developed to assist you in tracking your CPE credits for the next biennium (2003-2005).

The Computerized CPA exam will be our next challenge, as a Board and a profession. The first exams will take place in the Burlington area during April of 2004. If you have been asked by potential candidates for information let them know they can visit the AICPA Web site at: www.cpa-exam.org or the Board's Web site.

NASBA continues to be a very active organization for our profession and constantly challenges our Board members' schedules with required reading, meeting attendance and status reports.

And finally, I would like to acknowledge the outstanding service of some previous Board members. Sherri Prehoda, Gilles Messier, Bill Fisk and Francine Chittenden (Public Member) all provided exceptional guidance for the current members. We all hope you are enjoying life after BOPA activities.

Certified General Accountants

The Board has been re-evaluating its January 9, 2001 Memorandum of Understanding with the Certified General Accounts of Canada (CGAC), which waived the requirement for an evaluation of their foreign education to be eligible to sit for the Uniform CPA examination.

At its April 29, 2003 meeting, the Board unanimously voted to rescind its January 9, 2001 agreement with the CGAC. The Board has notified Mr. Handfield with the CGAC of its position. This means that all foreign educated candidates requesting to sit for the Uniform CPA exam (Chartered Accountants from Canada and

Australia, CGA's, etc.) must have their education evaluated by a National Association of Boards of Accountancy-recognized organization (i.e., IQEX, Foreign Academic Credentials Service, Inc. (FACS)).

The Board also agreed to no longer accept supervisors with CGA designations. The Board operates under the directive of NASBA, and verified that CGA's are not included in the agreement between NASBA and International Qualifications Appraisal Board (IQAB) with regard to acceptable supervisors. In addition, the Board strongly supports methods to standardize the requirements among jurisdictions and improve endorsement and reciprocity for persons already licensed among the states. This change in policy will strengthen that initiative.

The effective date as to when the Board will no longer accept candidates' work experience from supervisors with CGA designations, will be upon the adoption of the Proposed Rules (expected in July of 2003). The Proposed Rules state that only those supervisors recognized by NASBA will be accepted. Any candidate currently in the process, who has already earned experience under a supervisor with a CGA designation during the effective period of the MOU (January 2001) up to the adoption of the rules, will be considered on a case by case basis.

Statutory Amendments

The following statutes were amended or added, effective July 1, 2002.

Sections that were not changed were omitted from this information. For a complete copy visit our Web site or contact the Office.

Sec. 4. 26 V.S.A. § 13 is amended to read:

§ 13. DEFINITIONS

For the purposes of this chapter:

(1)(A) "Attest services" means providing the following financial statement services:

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

(ii) any review of a financial statement or compilation of a financial statement to be performed in accordance with the Statement on Standards for Accounting and Review Services (SSARS);

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

(B) The statements on standards specified in this section shall be adopted by reference by the board pursuant to rulemaking, and shall be those developed for general application by the American Institute of Certified Public Accountants.

(2) "Board" means the board of public accountancy.

(3) "Disciplinary action" or "disciplinary cases" includes any action taken by a board against a licensee, registrant or applicant premised upon a finding of wrongdoing or unprofessional conduct by the licensee or applicant. It includes all sanctions of any kind, excluding obtaining injunctions, but including issuing warnings, other similar sanctions and ordering restitution.

"Peer review" means a systemwide study, appraisal, or review of one or more aspects of the professional work of a person or firm in the practice of public accounting that performs attest services by a person or persons who are licensed under this chapter and who are not affiliated with the person or firm being reviewed.

* * *

(8) "Public accountant" means a certified public accountant or a registered public accountant until July 1, 2003, after which the title of registered public accountant will still exist for those licensed as registered

public accountants or having received conditional credit toward licensure as a registered public accountant by that date, but will no longer be a title granted by the board.

(10) "State" includes the states of the United States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.

Sec. 5. 26 V.S.A. § 14 is amended to read:

§ 14. PROHIBITIONS

(a) No person or firm shall issue a report on financial statements of, or provide attest services for, any other person, firm, organization, or governmental unit unless the person or firm is licensed or registered under this chapter. This prohibition does not apply to an officer, partner, or employee of any firm or organization affixing their signature to any statement or report in reference to the financial affairs of such firm or organization with any wording designating the position, title, or office that they hold therein; nor prohibit any act of a public official or employee in the performance of his or her duties as such; nor prohibit the performance by any persons of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports thereon.

* * *

(e) No person or firm holding a license under this chapter shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers or shareholders of the firm, or about any other matter; provided, however, that the names of one or more partners, members, managers or shareholders may be included in the name of a firm or its successor.

* * *

Sec. 6. 26 V.S.A. § 15 is amended to read:

§ 15. EXEMPTIONS

* * *

(b) A public accountant of another state, or any accountant who is qualified for the practice of public accounting in a foreign country may:

- (1) use a title granted by that state or country, together with any suitable translation into English of that title, and, if a foreign country, the name of that country;
- (2) temporarily practice public accounting after registering with the board under section 74a of this title;
- (c) Nothing in this chapter prohibits a federal, state or municipal officer or employee from performing the lawful functions and duties of any office or service required.
- (d) Nothing in this chapter prohibits an officer, employee, partner or principal of any organization from:
 - (1) signing a statement or report in reference to the affairs of that organization, with wording designating the title held in the organization; or
 - (2) describing himself or herself by title.

* * *

(f) Nothing in this chapter prohibits an individual person from using a title previously held as a public accountant licensed or certified in this or any other state, provided that the person's license or certificate was not revoked or suspended, and provided further that the person is not currently engaged in the practice of public accounting and does not use the title for the purpose of practicing public accounting.

(g) Nothing in this chapter shall be construed to prohibit other licensed or certified professionals from carrying on in the usual manner any of the functions of their professions.

Sec. 7. 26 V.S.A. § 51 is amended to read:

§ 51. CREATION OF BOARD

- (a) A board of public accountancy is created, consisting of five members, who shall be residents of this state.
- (b) One member of the board shall be a member of the public who has no pecuniary interest in accounting other than as a consumer or possible consumer of its services. The member shall have no pecuniary interest personally or through a spouse, parent, child, brother or sister.
- (c) At least three members of the board shall be licensed certified public accountants.
- (d) At least one member of the board shall be a licensed registered public accountant. In the event that a registered public accountant is unavailable to serve as a board member, that vacancy shall be filled by a licensed certified public accountant or a public member.
- (e) Board members shall be appointed for five-year terms by the governor in accordance with section 129b of Title 3.

Sec. 8. 26 V.S.A. § 54 is amended to read:

§ 54. GENERAL POWERS AND DUTIES OF THE BOARD

- (a) The board shall adopt rules concerning:
 - (1) a definition of the practice of public accountancy, interpreting section 13 of this title as appropriate;
 - (2) qualifications for obtaining licensure, interpreting the relevant statutes as appropriate;
 - (3) forms approved by the secretary of state, which are to be used by the board; and
 - (4) explanations of appeal and other significant rights given to applicants and the public.
- (b) The board may:
 - (1) conduct examinations and pass upon the qualifications of applicants for licensing;

(2) adopt rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public accounting;

* * *

(10) adopt rules regarding peer reviews that may be required to be performed under this chapter.

(c) The board annually may submit a proposed budget to the secretary of state.

Sec. 9. 26 V.S.A. § 71a is amended to read:

§ 71a. CERTIFIED PUBLIC ACCOUNTANT LICENSES

(a) A license as a “certified public accountant” shall be granted by the board to any person:

(1) who is of good character;

(2) who completes:

(A) 60 or more semester hours of college credit at a college or university recognized by the board, including a minimum of 30 semester hours of accounting, auditing and related subjects as the board determines to be appropriate, and four years of experience in public accounting, meeting the requirements prescribed by board rule or other experience or employment which the board in its discretion considers substantially equivalent; or

(B) 120 or more semester hours of college credit at a college or university recognized by the board, including a minimum of 30 semester hours of accounting, auditing and related subjects as the board determines to be appropriate, and two years of experience in public accounting, meeting the requirements prescribed by board rule or other experience or employment which the board in its discretion considers substantially equivalent; or

(C) 150 or more semester hours of college credit at a college or university recognized by the board, including a minimum of 42 semester hours of accounting, auditing and related subjects as the board

determines to be appropriate, and one year of experience in public accounting, meeting the requirements prescribed by board rule or other experience or employment which the board in its discretion considers substantially equivalent; and

(D) who has passed the examination required under subsection (b) of this section.* * *

Sec. 10. 26 V.S.A. § 71b is amended to read:

§ 71b. REGISTERED PUBLIC ACCOUNTANT LICENSES

(a) A license as a “registered public accountant” shall be granted by the board to any person:

(1) who is of good character;

(2) who completes:

(A) 60 or more semester hours of college credit at a college or university recognized by the board, including a minimum of 30 semester hours of accounting, auditing and related subjects as the board determines to be appropriate, and four years of experience in public accounting, meeting the requirements prescribed by board rule or other experience or employment which the board in its discretion considers substantially equivalent; or

(B) 120 or more semester hours of college credit at a college or university recognized by the board, including a minimum of 30 semester hours of accounting, auditing and related subjects as the board determines to be appropriate, and two years of experience in public accounting, meeting the requirements prescribed by board rule or other experience or employment which the board in its discretion considers substantially equivalent; or

(C) 150 or more semester hours of college credit at a college or university recognized by the board, including a minimum of 42 semester hours of accounting, auditing and related subjects as the board determines to be appropriate, and one year of experience in public

accounting, meeting the requirements prescribed by board rule or other experience or employment which the board in its discretion considers substantially equivalent; ~~or~~ and

(D) who has passed the examination required by subsection (b) of this section.

* * *

(c) An applicant for a license as a registered public accountant must have received conditional credit toward the registered public accountant examination on or before July 1, 2003 in order to continue on that path of licensure. Registered public accountants who have qualified for licensure on or before that date are allowed to continue to hold themselves out as such and continue to use that license and title.

Sec. 11. 26 V.S.A. § 72a is amended to read:

§ 72a. GENERAL LICENSING PROVISIONS

* * *

(c) Without requiring an examination, the board shall issue an appropriate license to a public accountant who is licensed or certified under the laws of another state;

(1) with education, examination and experience requirements which the board considers to be substantially equal to those of this state; or

(2) upon a showing that the applicant has had five years of experience in the practice of public accountancy or meets equivalent requirements prescribed by the board by rule within the ten years immediately preceding the application; and

(3) has fulfilled the requirements of continuing education or continuing professional competence programs that would have been applicable under subsection (b) of section 75 of this title.

(d) Examinations for each license shall be held by the board as often as the board determines, but not less frequently than once each year.

(e) An applicant of good character who has met the education requirements of the board for a license, or who expects to meet it within 60 days following the examination, may take the examination without waiting until the applicant meets the education requirement. No credit shall be given for the examination if the education requirement is not completed within the next 60 days or within a longer time granted by the board on application.

Sec. 12. 26 V.S.A. § 74 is amended to read:

§ 74. FIRMS; REGISTRATION AND OWNERSHIP

(a) All firms that have an office established or maintained in this state for the practice of public accounting shall be registered biennially with the board. Each office shall be under the supervision of a public accountant licensed in this state. The board shall adopt rules prescribing the procedure to be followed in carrying out the registrations.

(b) An applicant for initial registration or renewal under this section shall be required to show that, notwithstanding any other provision of law, a simple majority of the ownership of the firm, in terms of equity, creditor and voting rights of all partners, officers, members, shareholders or managers, belongs to holders of a certificate who are licensed in some state, and such partners, officers, members, shareholders or managers, whose principal place of business is in this state, and who perform professional services in this state, hold a valid license issued under this chapter. Although firms may include nonlicensee owners, the firm and its ownership must comply with the rules adopted by the board.

* * *

Sec. 13. 26 V.S.A. § 74a is amended to read:

§ 74a. REGISTRATION OF NONRESIDENT FIRMS

(a) All nonresident firms licensed or registered in another state or country who desire to temporarily practice in the state must register with the board and pay the required fee. The board shall adopt rules prescribing the procedure to be followed in carrying out the registrations. Registrations under this section shall expire three months after issuance. "Firm" is as defined in subdivision 13(4) of this title.

(b) All nonresident firms providing public accounting services in the state of Vermont must be registered and obtain a firm registration number.

Sec. 14. REPEAL

26 V.S.A. § 74b (registration of nonresident firms) is repealed.

Sec. 15. 26 V.S.A. § 75 is amended to read:

§ 75. RENEWAL

(a) Public accountant licenses and firm registrations under this chapter shall be renewed every two years on payment of the required fee.

* * *

(e) If a licensee fails to renew within 10 years of the license lapsing, the licensee must file a new application for licensure and satisfy the initial licensure requirements of the board in order to obtain a license.

Sec. 16. 26 V.S.A. § 76 is amended to read:

§ 76. UNPROFESSIONAL CONDUCT

Unprofessional conduct means:

(1) The conduct prohibited by this section, by section 129a of Title 3, or by other statutes relating to public accounting, whether or not that conduct is by a licensee, an applicant, or a person who later becomes an applicant;

(2) Disciplinary action by another state or country or federal agency of a

license or certificate to practice public accountancy;

(3) Failing to make available, upon request of a person using public accounting services, copies of documents in the possession or under the control of the accountant, when those documents have been prepared for and paid for by the user of services;

(4) Failing to return client-supplied information and documents, in whatever form contained, upon request of the client;

* * *

(6) Dishonesty, fraud or negligence in the practice of public accountancy, including making misleading, deceptive or untrue representations in the practice of public accountancy;

(7) The making of any false or misleading statement in support of an application filed by another;

(8) Failure of a licensee to provide any explanation requested by the board regarding evidence submitted by the licensee in support of an application for licensure filed by another, or regarding evidence submitted by the licensee in support of an application for licensure filed by another, or regarding a failure or refusal to submit such evidence; and failure by a licensee to furnish for inspection, upon request by the board, or its representative, documentation relating to any evidence submitted by the licensee in support of such an application; or

(9) Failing to report changes to the board as required by statute and the board's rules.

Sec. 17. 26 V.S.A. § 78 is amended to read:

§ 78. DISCIPLINARY MATTERS

(a) In addition to other powers specifically established by law, the board may:

* * *

(3) Issue warnings and reprimands, condition, suspend, revoke, or reinstate licenses and order restitution to aggrieved consumers.

(b) The board shall accept complaints from any member of the public, any licensee, any state or federal agency or the attorney general. The board may initiate disciplinary action in any complaint against a licensee and may act without having received a complaint.

(c) After hearing, the board may take disciplinary action against a licensee, registrant or applicant found guilty of unprofessional conduct.

(d) On petition, the board may reinstate any license or registration it earlier conditioned, revoked or suspended.

(e) Appeals from final board decisions shall be taken in accordance with section 130a of Title 3.

Sec. 18. 26 V.S.A. § 81(c) is added to read:

(c) Original copies of client documents in the possession of the licensee are the property of the client, and must be returned to the client upon request.

Sec. 19. 26 V.S.A. § 82(d) is amended to read:

(d) Nothing contained in this chapter prohibits a firm or any of its employees, from disclosing any data in confidence to any representative of a recognized professional association or to the board in connection with a professional ethics investigation or in the course of a peer review.

Proposed Changes to 3 V.S.A.

These changes effect all professions regulated by the Secretary of State's Office. These changes have been approved by the House and Senate and are awaiting the Governor's signature as of the date of this publication.

3 V.S.A. § 127(b) is amended to read:

(b) A person practicing a licensed profession without authority may, upon the complaint of the attorney

general or a state's attorney, be enjoined therefrom by the superior court and may be assessed a civil penalty of not more than \$1,000.00.

The attorney general may elect to bring an action seeking only a civil penalty of not more than \$1,000.00 for practicing a regulated profession without authority before the board having regulatory authority over that profession. Such hearings shall be conducted in the same manner as disciplinary hearings.

3 V.S.A. § 129a(a) is amended to read:

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items, or any combination of items, whether or not the conduct at issue was committed within or outside the state, shall constitute unprofessional conduct:

* * *

(9) Failing to retain client records for a period of seven years, unless laws specific to the profession allow for a shorter retention period. When other laws or agency rules require retention for a longer period of time, the longer retention period shall apply.

(10) Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession.

(11) Failing to report to the office a conviction of any offense in a Vermont district court, a Vermont superior court, or a court outside Vermont within 30 days of a conviction of any offense related to the practice of the profession.

Proposed Rules

The changes to the Rules are in response to the overhaul of the accountancy statutes enacted on July 1, 2002 (as stated above). The Rules address all areas of the practice of public accountancy, including definitions, prohibitions, qualifications for licensure, continuing education, firm registration and requirements, peer reviews and professional conduct. Rules are necessary to implement and clarify the extensive changes to the enabling statutes of Title 26 and to provide further guidance and standards for this rapidly evolving profession in the best interest fo the public health, safety and welfare.

Copies of the Proposed Rule have been mailed to all firms. The Final Proposed Rule may be found at www.vtprofessionals.org

Contact us

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The laws, rules, and many application forms pertaining to this profession are available via our Web site at: www.vtprofessionals.org