

Banking, Commerce, and Insurance Committee

Nebraska Legislature

Occupational Regulation Review

of the

Public Accountancy Act (PAA)

Pursuant to the

Occupational Board Reform Act,

Neb. Rev. Stat. Secs. 84-933 to 84-948

And Interim Study Resolution LR 116 (Williams)

December 2021

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The Occupational Board Reform Act, Neb. Rev. Stat. Secs. 84-933 to 84-948, was enacted in 2018 to provide for legislative review of occupational regulations.

Neb. Rev. Stat. Sec. 84-948 (1) provides as follows:

(1) Beginning in 2019, each standing committee of the Legislature shall annually review and analyze approximately twenty percent of the occupational regulations within the jurisdiction of the committee and prepare and submit an annual report electronically to the Clerk of the Legislature by December 15 of each year as provided in this section. Each committee shall complete this process for all occupational regulations within its jurisdiction within five years and every five years thereafter. Each report shall include the committee's recommendations regarding whether the occupational regulations should be terminated, continued, or modified.

Neb. Rev. Stat. Sec. 84-948(2) provides as follows:

(2) Each committee may require the submission of information by the affected occupational board and other affected or interested parties. Neb. Rev. Stat. Sec. 84-948(3) to (7) provides as follows (with requests shown in bold):

(3) A committee's report shall include, but not be limited to, the following:

(a) The title of the regulated occupation and the name of the occupational board responsible for enforcement of the occupational regulations;

Certified Public Accountant (CPA)

The Nebraska State Board of Public Accountancy

(b) The statutory citation or other authorization for the creation of the occupational regulations and occupation board;

The Public Accountancy Act (PAA)

1-105 to 1-171

(c) The number of members of the occupational board and how the members are appointed;

Eight appointed by the Governor

(d) The qualifications for membership on the occupational board;

The board consists of eight members; six members are active Certified Public Accountants (CPAs) with two each representing each of the three congressional districts; two members are public members.

(e) The number of times the occupational board is required to meet during the year and the number of times it actually met.

Required FY19-20 1 Held 5

Required FY18-19 1 Held 6

Required FY17-18 1 Held 6

Required FY16-17 1 Held 5

Required FY15-16 1 Held 6

(f) Annual budget information for the occupational board for the five most recently completed fiscal years

FY19-20 \$430,690

FY18-19 \$423,948

FY17-18 \$420,830

FY16-17 \$438,085

FY15-16 \$431,852

(g) For the immediately preceding five calendar years, or for the period of time less than five years for which the information is practically available, the number of government certificates, occupational licenses, and registrations the occupational board has issued, revoked, denied, or assessed penalties against, listed anonymously and separately per type of credential, and the reasons for such revocations, denials, and other penalties;

	Certificates Issued	Individual Licenses	Firm Licenses	Revocations
2021	114	1300	650	0
2020	103	1290	657	0
2019	104	1313	595	1
2018	120	1243	653	11
2017	131	1257	544	15

The intent of the Board's regulatory program is to be educational in practice when possible. When necessary the Board disciplines CPAs and CPA firms for a wide range of failures to adhere to the various accounting professional standards referenced within the Public Accountancy Act and the Nebraska Rules of Professional Conduct. These include sanctions issued by other regulatory agencies including the Securities and Exchange Commission (SEC), the Public Accounting Oversight Board (PCAOB), the Nebraska State Auditor's Office and others. Other discipline is issued after inquiries based on complaints from the public. CPA firms must also successfully complete the requirements under the AICPA's national Peer Review Program.

The Board has revoked three permits/certificates for felony convictions while the vast majority are considered administrative revocations for those who do not comply with renewal provisions and fail to stay in contact with the Board.

Several applications to sit for the Uniform CPA Examination are initially denied each year based on failing to meet education requirements outlined within Board regulations. Most then successfully complete the requirements after working with Board staff and sit for the examination.

(h) A review of the basic assumptions underlying the creation of the occupational regulations;

The 1957 Public Accountancy Act (PAA) created the Nebraska State Board of Public Accountancy (The Board) and assigned it the following legislative purpose:

1-105.01. Nebraska State Board Public Accountancy; purpose. It is the purpose of the Nebraska State Board of Public Accountancy to protect the welfare of the citizens of the state by assuring the competency of persons regulated under the Public Accountancy Act through

(1) administration of certified public accountant examinations, (2) issuance of certificates and permits to qualified persons and firms, (3) monitoring the requirements for continued issuance of certificates and permits, and (4) disciplining certificate and permit holders who fail to comply with the technical or ethical standards of the public accountancy profession.

Source: Laws 1984, LB 473, § 1; Laws 1997, LB 114, § 2.

The Board was given rule-making authority in PAA Section 1—112:

1-112. Board; professional conduct; rules and regulations. The board may adopt and promulgate rules and regulations of professional conduct appropriate to establish and maintain a high standard of integrity and dignity in the profession of public accountancy and to govern the administration and enforcement of the Public Accountancy Act. The rules and regulations shall be adopted and promulgated pursuant to the Administrative Procedure Act.

Source: Laws 1957, c. 1, § 7, p. 58; Laws 1993, LB 41, § 1; Laws 1997, LB 114, § 10. Cross References: Administrative Procedure Act, see section 84-920.

The Board was assigned Title 288 in the Nebraska Administrative Code (NAC) as the location for its properly promulgated rules. **As indicated in 1-112 the basic assumption underlying the creation of regulations includes the establishment of regulations to maintain a high standard of integrity and dignity in the profession of public accountancy.**

(j) A comparison of whether and how other states regulate the occupation.

There are 55 State Boards of Accountancy within the United States and its territories. All Boards are members of the National Association of State Boards of Accountancy (NASBA) who along with the American Institute of CPAs (AICPA) create and adopt the Uniform Accountancy Act (UAA). The goal of the UAA is the attempt to provide uniformity when possible for State Boards to consider when drafting law and regulations. Most important areas of uniformity include substantial equivalency whereas uniformity to become a CPA exists involving education, examination, and experience

requirements. Some differences exist between State Boards in these requirements; however, all must be met in some form before licensure is granted as a CPA as indicated within the UAA. Many other examples including continuing professional education, Peer Review, and Mobility of CPAs between different States exist within the UAA for State Board consideration. _

(4) Subject to subsection (5) of this section, each committee shall also analyze, and include in its report, whether the occupational regulations meet the policies stated in section 84-946 considering the following recommended courses of action for the meeting such policies:

a. If the need is to protect consumers against fraud, the likely recommendation will be to strengthen powers under the Uniform Deceptive Trade Practices Act or require disclosures that will reduce misleading attributes of the specific good or service;

Not Applicable

b. If the need is to protect consumers against unclean facilities or to promote general health and safety, the likely recommendations will be to require periodic inspections of such facilities;

Not Applicable

c. If the need is to protect consumers against potential damages and failure by providers to complete a contract fully or up to standards, the likely recommendations will to require that be bonded;

Not Applicable

d. If the need is to protect a person who is not party to contract between the provider and consumer, the likely recommendation will be to require that he provider have insurance;

Not Applicable (??? Current regulations do not require CPA firms have insurance...)

e. If the need is to protect consumers against a potential damages by transient providers, the likely recommendation will be to require that providers register their businesses with the Secretary of State;

CPAs are credentialed

f. If the need is to protect consumers against a shortfall or imbalance of knowledge about the goods and services relative to the providers' knowledge, the likely recommendation will be to enact government certifications; and

CPAs are credentialed

g. If the need is to address a systematic information shortfall such that a reasonable consumer is unable to distinguish between the quality of providers, there is an absence of institutions that provide adequate guidance to the consumer, and the consumer's ability to distinguish between providers and the lack of adequate guidance allows for undue risk of present, significant, and substantiated harms, the likely recommendation will be to enact an occupational license.

CPAs are credentialed

(5) If a lawful occupation is subject to the Nebraska Regulation of Health Professions Act, the analysis under section (4) of this section shall be made using the least restrictive method of regulation as set out in section 71-6222.

Not applicable

(6) In developing recommendations under this section, the committee shall review any report issued to the Legislature pursuant to the Nebraska Regulation of Health Professions Act, if applicable, and consider any findings or recommendations of such report related to the occupational regulations under review.

Not applicable

(7) If the committee finds that it is necessary to change professional regulations, the committee shall recommend the least restrictive regulation consistent with the public interest and the policies in this section and section 84-946.

(h) A review of the basic assumptions underlying the creation of the occupational regulations:

Accounting can be described as an information system that provides essential information about the financial activities of a business entity to various individuals or groups for their use in making informed decisions. Accounting is primarily concerned with the design of the record-keeping system, the preparation of summarized reports based on the recorded data, and the interpretation of those reports. Early in the 20th Century States identified the need to credential and regulate members of the accounting profession beginning with the State of New York. Many States followed whereas today there are 55 State Boards regulating the profession in the States and U.S. Territories.

In Nebraska, the 1957 Nebraska Legislature abolished the Board of Examiners of Public Accountancy, which had existed since 1909, and created the Nebraska State Board of Public Accountancy.

- i. **A statement from the occupational license board on the effectiveness of the occupational regulations, and**

The Board was assigned Title 288 in the Nebraska Administrative Code (NAC) as the location for its properly promulgated rules under the authority of the Public Accountancy Act Section 1-112.

Board regulations continue to be effective as they cover the important requirements for a person to obtain and keep an Active Permit to Practice as a CPA. They include:

Education Requirements/ Chapter 9- Individuals seeking to become a CPA must complete a Bachelor's Degree from an accredited four-year institution and earn a total of 150 hours of post-secondary college credits (the 150-hour requirement).

In Nebraska, the curriculum components were developed by the Board's Education Advisory Committee (EAC) made up of several educators and CPAs under the authority of PAA Section 1-113. The Nebraska requirements list subject areas rather than specific courses. This approach was taken in the PAA and initial EAC to afford Nebraska post-secondary educational institutions great flexibility in implementing their unique curricula and in meeting their disparate missions and responsibilities. The EAC and Board did not wish to mandate a specific one-size-fits-all approach to these educational requirements.

The Uniform CPA Examination/ Chapter 6- *The Uniform CPA Examination was developed one hundred years ago to assist State Boards in assessing the competency of candidates who aspire to be CPAs. The primary motivation of administering a uniform examination is to ensure there is a baseline level of technical knowledge that all successful candidates for CPA designation must possess, and therefore ultimately to protect the public interest.*

Experience Requirement/ Chapter 7 - *Nebraska uses a two-tier approach to licensing. The first step is successful completion of the examination requirements as noted above. Then a candidate must demonstrate to the Board that the experience requirement has been met. The experience component generally involves the practice of public accounting, but subsequent to the Nebraska legislature changes in 2013 alternative experience can satisfy this requirement.*

Continuing Professional Education/ Chapter 8- *An active permit holder (CPA) must complete 80 hours of approved CPE every two years to maintain and improve their existing skills and knowledge of the changing accounting environment. PAA Section 1-136.01 and NAC Title 288/ Chapter 8 require this education as a condition of continued licensure as an active CPA.*

Rules of Professional Conduct/ Chapter 5-- *within Title 288/ Chapter 5 are promulgated by the Board to regulate the Nebraska CPA profession and to apply professional standards with which CPAs must comply while performing professional services. This most important function of the Board is supported by the Nebraska Attorney General's Office, the Board Attorney, and CPA experts engaged to review professional work.*

Other regulations cover CPA firms that must meet ownership, office, and forms of practice located within Chapter 10 & 11.

Conclusion:

The regulatory framework for issuance of certificates and permits is established by the Legislature and administered by the Board of Public Accountancy. It is serving the expectations of Nebraskans when seeking professional fiduciary services from certified public accountants. As a whole, this regulatory framework is appropriate and balanced and does not need modification at this time.