

VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

CHAPTER 287

An Act to amend and reenact §§ 54.1-4400 through 54.1-4403, 54.1-4412.1, 54.1-4413.2, 54.1-4413.3, and 54.1-4413.4 of the Code of Virginia, relating to the Board of Accountancy; technical updates to conform with recently updated professional standards and requirements for out-of-state CPA firms.

[S 1125]

Approved March 17, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-4400 through 54.1-4403, 54.1-4412.1, 54.1-4413.2, 54.1-4413.3, and 54.1-4413.4 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-4400. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

"Accredited institution" means a degree-granting college or university accredited either by (i) one of the six major regional accrediting organizations-Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Northwest Commission on Colleges and Universities, Southern Association of Colleges and Schools, and Western Association of Schools and Colleges-or their successors; or (ii) an accrediting organization demonstrating to the Board periodically, as prescribed by the Board, that its accreditation process and standards are substantially equivalent to the accreditation process and standards of the six major regional accrediting organizations.

"Assurance" means any form of expressed or implied opinion or conclusion about the conformity of a financial statement with any recognition, measurement, presentation, or disclosure principles for financial statements.

"Attest services" means audit, review, or other attest services for which standards have been established by the Public Company Accounting Oversight Board, by the Auditing Standards Board or the Accounting and Review Services Committee of the American Institute of Certified Public Accountants, or by any successor standard-setting authorities.

"Board" means the Virginia Board of Accountancy.

"Compilation services" means compiling financial statements in accordance with standards established by the American Institute of Certified Public Accountants or by any successor standard-setting authorities.

"Continuing professional education" means the education that a person obtains after passing the CPA examination and that relates to services provided to an employer in academia, government, or industry using the CPA title or to services provided to the public using the CPA title.

"CPA" means certified public accountant.

"CPA examination" means the national uniform CPA examination approved and administered by the board of accountancy of a state or by the board's designee.

"CPA wall certificate" means the symbolic document suitable for wall display that is issued by the board of accountancy of a state to a person meeting the requirements to use the CPA title in that state.

"Executive Director" means the Executive Director of the Board.

"Experience" means employment in academia, a firm, government, or industry in any capacity involving the substantial use of accounting, financial, tax, or other skills that are relevant, as determined by the Board, to provide services to an employer using the CPA title or to the public using the CPA title.

"Facilitated State Board Access" or "FSBA" means the sponsoring organization's process whereby it provides the Board access to peer review results via a secure website.

"Financial statement" means a presentation of historical or prospective financial information about one or more persons or entities.

"Financial statement preparation services" means financial statement preparation services for which standards have been established by the American Institute of Certified Public Accountants or by any successor standard-setting authorities.

"Firm" means an entity formed by one or more licensees as a sole proprietorship, a partnership, a corporation, a limited liability company, or any other type of entity permitted by law.

"License of another state" means the license that is issued by the board of accountancy of a state other than Virginia that gives a person the privilege of using the CPA title in that state or that gives a firm the privilege of providing attest services ~~and~~, compilation services, *and financial statement preparation services* to persons and entities located in that state.

"Licensed" means holding a Virginia license or the license of another state.

"Licensee" means a person or firm holding a Virginia license or the license of another state.

"Peer review" means a review of a firm's attest services ~~and~~, compilation services, *and financial statements preparation services* that is conducted in accordance with the applicable monitoring program of the American Institute of Certified Public Accountants or its successor, or with another monitoring program approved by the Board.

"Practice of public accounting" means the giving of an assurance other than (i) by the person or persons about whom the financial information is presented or (ii) by one or more owners, officers, employees, or members of the governing body of the entity or entities about whom the financial information is presented.

"Providing services to an employer using the CPA title" means providing to an entity services that require the substantial use of accounting, financial, tax, or other skills that are relevant, as determined by the Board.

"Providing services to the public using the CPA title" means providing services that are subject to the guidance of the standard-setting authorities listed in the standards of conduct and practice in subdivisions 5 and 6 of § 54.1-4413.3.

"Sponsoring organization" means a Board-approved professional society or other organization responsible for the facilitation and administration of peer reviews through use of its peer review program and applicable peer review standards.

"State" means any state of the United States, the Commonwealth of the Northern Mariana Islands, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

"Using the CPA title in Virginia" means using "CPA," "Certified Public Accountant," or "public accountant" (i) in any form or manner of verbal communication to persons or entities located in Virginia or (ii) in any form or manner of written communication to persons or entities located in Virginia, including but not limited to the use in any abbreviation, acronym, phrase, or title that appears in business cards, the CPA wall certificate, Internet postings, letterhead, reports, signs, tax returns, or any other document or device.

"Virginia license" means a license that is issued by the Board giving a person the privilege of using the CPA title in Virginia or a firm the privilege of providing attest services ~~and~~, compilation services, *and financial statement preparation services* to persons and entities located in Virginia.

§ 54.1-4401. Applicability of chapter.

A. This chapter shall not be construed to prevent any person who is not licensed from:

1. Using the description "accountant" or "bookkeeper";
2. Stating that he practices accounting or bookkeeping;
3. Performing services involving the use of accounting skills;
4. Rendering tax services, or management advisory or consulting services;
5. Keeping the books of account and related accounting records; or
6. Preparing financial statements without providing assurance.

B. This chapter shall not be construed to prevent any person who is not licensed from stating that he has prepared, compiled, assembled or drafted a financial statement, provided he does not use any additional language that comprises an assurance or make any claims, representations, or statements prohibited by § 54.1-4414.

C. The prohibitions of § 54.1-4414 and the other provisions of this chapter shall not be construed to preclude any person who is not licensed from *including a statement on financial statements indicating that no assurance is provided on the financial statements* or using the following language: "I (We) have compiled the accompanying (financial statements) of (name of entity) as of (time period) and for the (period) then ended. A compilation is limited to presenting in the form of financial statements information that is the representation of management (owners). I (We) have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or any other form of assurance on them. Management has elected to omit substantially all (or certain) required disclosures (and the statement of cash flows). If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the (entity's) financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about these matters."

D. The provisions of this chapter shall not be construed, interpreted, or applied to prohibit any public official or public employee from performing his duly authorized or mandated duties.

§ 54.1-4402. Board; membership; qualifications; powers and duties.

A. The Board of Accountancy established under the former § 54.1-2000 and previously operating in the Department of Professional and Occupational Regulation is hereby continued and reestablished as an independent board in the executive branch of state government.

B. The Board shall consist of seven members appointed by the Governor as follows: one member shall be a public member who may be an accountant who is not licensed but otherwise meets the requirements of clauses (i) and (ii) of § 54.1-107; one member shall be an educator in the field of accounting who holds a Virginia license; four members shall be holders of Virginia licenses who have been actively engaged in providing services to the public using the CPA title for at least three years prior to appointment to the Board; and one member shall hold a Virginia license and for at least three

years prior to appointment to the Board shall have been actively engaged in providing services to the public using the CPA title or in providing services to an employer in government or industry using the CPA title.

C. Members of the Board shall serve for terms of four years. The Governor may remove any member as provided in subsection B of § 2.2-108. Any member of the Board whose Virginia license is revoked or suspended shall automatically cease to be a member of the Board.

D. The Board shall restrict the practice of public accounting and the use of the CPA title in Virginia to licensed persons and firms as specified in §§ 54.1-4409.1 and 54.1-4412.1.

E. The Board shall restrict the provision of attest services ~~and~~, compilation services, *and financial statement preparation services* to persons or entities located in Virginia and ~~to~~ as specified in § 54.1-4412.1. However, this shall not affect the privilege of a person who is not licensed to *include a statement on financial statements indicating that no assurance is provided on the financial statements*, to say that financial statements have been compiled, or to use the compilation language, as prescribed by subsections B and C of § 54.1-4401.

F. The Board shall take such actions as may be authorized by this chapter to ensure the continued competence of persons using the CPA title in Virginia and firms providing attest services ~~or~~, compilation services, *or financial statement preparation services* to persons or entities located in Virginia, and to aid the public in determining their qualifications.

G. The Board shall take such actions as may be authorized by this chapter to ensure that persons using the CPA title in Virginia and firms providing attest services ~~or~~, compilation services, *or financial statement preparation services* to persons or entities located in Virginia adhere to the standards of conduct and practice in § 54.1-4413.3 and regulations promulgated by the Board.

H. The Board shall have the responsibility of enforcing this chapter and may by regulation establish rules and procedures for the implementation of the provisions of this chapter.

§ 54.1-4403. General powers and duties of the Board.

The Board shall have the power and duty to:

1. Establish the qualifications of applicants for licensure, provided that all qualifications shall be necessary to ensure competence and integrity.

2. Examine, or cause to be examined, the qualifications of each applicant for licensure, including the preparation, administration and grading of the CPA examination.

3. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by licensees, and to effectively administer the regulatory system.

4. Levy and collect fees for the issuance, renewal, or reinstatement of Virginia licenses that are sufficient to cover all expenses of the administration and operation of the Board.

5. Levy on holders of Virginia licenses special assessments necessary to cover expenses of the Board.

6. Initiate or receive complaints concerning the conduct of holders of Virginia licenses or concerning their violation of the provisions of this chapter or regulations promulgated by the Board, and to take appropriate disciplinary action if warranted.

7. Initiate or receive complaints concerning the conduct of persons who use the CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411 or firms that provide attest services ~~or~~, compilation services, *or financial statement preparation services* to persons or entities located in Virginia under the provisions of subsection C of § 54.1-4412.1, and to take appropriate disciplinary action if warranted.

8. Initiate or receive complaints concerning violations of the provisions of this chapter or regulations promulgated by the Board by persons who use the CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411 or firms that provide attest services ~~or~~, compilation services, *or financial statement preparation services* to persons or entities located in Virginia under the provisions of subsection C of § 54.1-4412.1, and to take appropriate disciplinary action if warranted.

9. Revoke, suspend, or refuse to reinstate a Virginia license for just causes as prescribed by the Board.

10. Revoke or suspend, for just causes as prescribed by the Board, a person's privilege of using the CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411 or a firm's privilege of providing attest services ~~or~~, compilation services, *or financial statement preparation services* to persons or entities located in Virginia under the provisions of subsection C of § 54.1-4412.1.

11. Establish requirements for peer reviews.

12. Establish continuing professional educational requirements as a condition for issuance, renewal, or reinstatement of a Virginia license.

13. Expand or interpret the standards of conduct and practice in § 54.1-4413.3.

14. Enter into contracts necessary or convenient for carrying out the provisions of this chapter or the functions of the Board.

15. Do all things necessary and convenient for carrying into effect this chapter and regulations promulgated by the Board.

§ 54.1-4412.1. Licensing requirements for firms.

A. Only a firm can provide attest services ~~and~~, compilation services, *or financial statement preparation services* to persons or entities located in Virginia. However, this shall not affect the privilege of a person who is not licensed *to include a statement on financial statements indicating that no assurance is provided on the financial statements*, to say that financial statements have been compiled, or to use the compilation language, as prescribed by subsections B and C of § 54.1-4401.

B. A firm that provides attest services ~~and~~, compilation services, *or financial statement preparation services* to persons or entities located in Virginia shall obtain a Virginia license if the principal place of business in which it provides those services is in Virginia.

C. A firm that is not required to obtain a Virginia license may provide attest services ~~and~~, compilation services, *or financial statement preparation services* to persons or entities located in Virginia if:

1. *The firm can lawfully provide attest services, compilation services, or financial statement preparation services to persons or entities in the state where its principal place of business is located; and*

2. *The firm complies with subdivisions D 1, 2, 4, 5, 6, and 8 and subsection F; and*

3. The firm's personnel working on the engagement either (i) hold a Virginia license or (ii) hold the license of another state and comply with the substantial equivalency provisions of § 54.1-4411; or

~~2.~~ 4. The firm's personnel working on the engagement are under the supervision of a person who either (i) holds a Virginia license or (ii) holds the license of another state and complies with the substantial equivalency provisions of § 54.1-4411.

D. For a firm to obtain a Virginia license:

1. As determined on a firm-wide basis:

a. At least 51 percent of the owners of the firm shall be licensees, trustees of an eligible employee stock ownership plan as defined in § 13.1-543, or a firm that meets this requirement; and

b. At least 51 percent of the voting equity interest in the firm shall be owned by persons who are licensees, by trustees of an eligible employee stock ownership plan as defined in § 13.1-543, or by a firm that meets this requirement.

If the death, retirement, or departure of an owner causes either of these requirements not to be met, the requirement shall be met within one year after the death, retirement, or departure of the owner.

2. The Board shall prescribe requirements concerning the hours that owners who are not licensees work in the firm and may prescribe other requirements for those persons.

3. All attest services ~~and~~, compilation services, *and financial statement preparation services* provided for persons and entities located in Virginia shall be under the supervision of a person who either (i) holds a Virginia license or (ii) holds the license of another state and complies with the substantial equivalency provisions of § 54.1-4411.

4. Any person who releases or authorizes the release of reports on attest services ~~and~~, compilation services, *or financial statement preparation services* provided for persons or entities located in Virginia shall:

a. Either (i) hold a Virginia license or (ii) hold the license of another state and comply with the substantial equivalency provisions of § 54.1-4411; and

b. Meet any additional requirements the Board prescribes.

5. The firm shall conduct its attest services ~~and~~, compilation services, *and financial statement preparation services* in conformity with the standards of conduct and practice in § 54.1-4413.3 and regulations promulgated by the Board.

6. The firm shall be enrolled in the applicable monitoring program of the American Institute of Certified Public Accountants or its successor, or in another monitoring program for attest services ~~and~~, compilation services, *and financial statement preparation services* that is approved by the Board. In addition, the firm shall comply with any requirements prescribed by the Board in response to the results of peer reviews.

7. The firm shall participate in the American Institute of Certified Public Accountants', or sponsoring organizations', Facilitated State Board Access process, or its successor process, for peer reviews.

8. The name of the firm shall not be false, misleading, or deceptive.

E. The Board shall prescribe the methods and fees for a firm to apply for the issuance, renewal, or reinstatement of a Virginia license.

F. An entity may not use the CPA title in Virginia unless it meets the requirements of subdivision D 1.

§ 54.1-4413.2. The renewal and reinstatement of licenses and lifting the suspension of privileges.

A. A Virginia license shall provide its holder with a 12-month privilege to use the CPA title in Virginia or provide attest services ~~and~~, compilation services, *and financial statement preparation services* to persons and entities located in Virginia.

B. The person or firm holding the license shall have an additional 12-month period after the expiration of a license to renew the license.

1. The Board may prescribe renewal fees and requirements that increase based on the amount of time the person or firm allows to elapse before applying for renewal.

2. During the additional 12-month period, the person or firm shall be considered to hold a Virginia license.

C. If the license is not renewed by the end of the additional 12-month period, it shall be considered to have expired and the person or firm shall be considered to no longer hold a Virginia license.

D. A person whose Virginia license expired may obtain a new Virginia license under subsection C of § 54.1-4409.2 if he holds the license of another state.

E. The license of a person whose Virginia license expired and who does not hold the license of another state may be reinstated under this subsection. In addition, a person whose privilege of using the CPA title in Virginia was suspended may have the suspension lifted under this subsection.

1. To be considered for reinstatement of a Virginia license or lifting the suspension of the privilege of using the CPA title in Virginia:

a. The person shall disclose to the Board why he no longer holds a Virginia license or why his privilege of using the CPA title in Virginia was suspended.

b. The person shall disclose to the Board each state in which he holds or has held a license.

c. For each of the states in which the person holds a license, he shall provide documentation from the board of accountancy about whether he is in good standing with the board, whether there are any pending actions alleging violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board, and whether he has been found guilty of any violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board.

d. For each of the states in which the person has held a license, the person shall disclose why he no longer holds a license and provide documentation from the board of accountancy concerning whether he has been found guilty of any violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board.

e. The person shall describe his continuing professional education since his Virginia license expired or was suspended. The Board shall determine whether his continuing professional education complies with the continuing professional education requirement prescribed by the Board for that period.

2. After evaluating the information provided by the person, the Board may request additional information and may impose additional requirements for reinstatement of the Virginia license or lifting the suspension.

3. The Board shall communicate to the person its decision and, if the request for reinstatement or lifting the suspension is denied, the reasons for the denial. The request may be resubmitted when the person believes the matters affecting the request have been satisfactorily resolved. The person may request a proceeding in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

F. The license of a firm whose Virginia license expired may be reinstated under this subsection. In addition, a firm whose privilege of providing attest services or , compilation services, *or financial statement preparation services* to persons or entities located in Virginia was suspended may have the suspension lifted under this subsection.

1. To be considered for reinstatement of a Virginia license or lifting the suspension of the privilege of providing attest services or , compilation services, *or financial statement preparation services* to persons or entities located in Virginia:

a. The firm shall disclose to the Board why it no longer holds a Virginia license or why its privilege of providing attest services or , compilation services, *or financial statement preparation services* to persons or entities located in Virginia was suspended.

b. The firm shall disclose to the Board each state in which it holds or has held a license.

c. For each of the states in which the firm holds a license, it shall provide documentation from the board of accountancy concerning whether it is in good standing with the board, whether there are any pending actions alleging violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board, and whether it has been found guilty of any violations of these standards of conduct and practice.

d. For each of the states in which the firm has held a license, the firm shall disclose why it no longer holds a license and provide documentation from the board of accountancy concerning whether it has been found guilty of any violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board.

2. After evaluating the information provided by the firm, the Board may request additional information and may impose additional requirements for reinstatement of the Virginia license or lifting the suspension.

3. The Board shall communicate to the firm its decision and, if the request for reinstatement or lifting the suspension is denied, the reasons for the denial. The request may be resubmitted when the firm believes the matters affecting the request have been satisfactorily resolved. The firm may request a proceeding in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

G. The Board shall consider granting the privilege of using the CPA title in Virginia, or the privilege of providing attest services or , compilation services, *or financial statement preparation services* to

persons or entities located in Virginia, to persons or firms that have had the privilege revoked only when the person or firm demonstrates to the Board that there are special facts and circumstances that warrant reconsideration by the Board of whether it should allow the person or firm to have the privilege.

§ 54.1-4413.3. Standards of conduct and practice.

Persons using the CPA title in Virginia and firms providing attest services $\text{\textcircled{R}}$, compilation services, or *financial statement preparation services* to persons or entities located in Virginia shall conform to the following standards of conduct and practice.

1. Exercise sensitive professional and moral judgment in all activities.
2. Act in a way that serves the public interest, honors the public trust, and demonstrates commitment to professionalism.
3. Perform all professional responsibilities with the highest sense of integrity, maintain objectivity and freedom from conflicts of interest in discharging professional responsibilities, and avoid knowingly misrepresenting facts or inappropriately subordinating judgment to others.
4. Follow the Code of Professional Conduct, and the related interpretive guidance, issued by the American Institute of Certified Public Accountants, or any successor standard-setting authorities.
5. Follow the technical standards, and the related interpretive guidance, issued by committees and boards of the American Institute of Certified Public Accountants that are designated by the Council of the American Institute of Certified Public Accountants to promulgate technical standards, or that are issued by any successor standard-setting authorities.
6. Follow the standards, and the related interpretive guidance, as applicable under the circumstances, issued by the Comptroller General of the United States, the Federal Accounting Standards Advisory Board, the Financial Accounting Standards Board, the Governmental Accounting Standards Board, the Public Company Accounting Oversight Board, the U. S. Securities and Exchange Commission, comparable international standard-setting authorities, or any successor standard-setting authorities.

7. Do not engage in any activity that is false, misleading, or deceptive.

§ 54.1-4413.4. Penalties.

A. Penalties the Board may impose consist of:

1. Revoking the privilege of using the CPA title in Virginia or providing attest services $\text{\textcircled{R}}$, compilation services, or *financial statement preparation services* to persons or entities located in Virginia;
2. Suspending or refusing to reinstate the privilege of using the CPA title in Virginia or providing attest services $\text{\textcircled{R}}$, compilation services, or *financial statement preparation services* to persons or entities located in Virginia;
3. Reprimanding, censuring, or limiting the scope of practice of any person using the CPA title in Virginia or any firm providing attest services $\text{\textcircled{R}}$, compilation services, or *financial statement preparation services* to persons or entities located in Virginia;
4. Placing any person using the CPA title in Virginia or any firm providing attest services $\text{\textcircled{R}}$, compilation services, or *financial statement preparation services* to persons or entities located in Virginia on probation, with or without terms, conditions, and limitations;
5. Requiring a firm holding a Virginia license to have an accelerated peer review conducted as the Board may specify or to take other remedial actions;
6. Requiring a person holding a Virginia license to satisfactorily complete additional or specific continuing professional education as the Board may specify; and
7. Imposing a monetary penalty up to \$100,000 for each violation of the provisions of this chapter or regulations promulgated by the Board; any monetary penalty may be sued for and recovered in the name of the Commonwealth.

B. The Board may impose penalties on persons using the CPA title in Virginia or firms providing attest services $\text{\textcircled{R}}$, compilation services, or *financial statement preparation services* to persons or entities located in Virginia for:

1. Violation of the provisions of this chapter or regulations promulgated by the Board.
2. Fraud or deceit in obtaining, renewing, or applying for reinstatement or lifting the suspension of a Virginia license.
3. Revocation, suspension, or refusal to reinstate the license of another state for disciplinary reasons.
4. Revocation or suspension of the privilege of practicing before any state or federal agency or federal court of law.
5. Dishonesty, fraud, or gross negligence in providing services to an employer using the CPA title, in providing services to the public using the CPA title, or in providing attest services $\text{\textcircled{R}}$, compilation services, or *financial statement preparation services*.
6. Dishonesty, fraud, or gross negligence in preparing the person's or firm's own state or federal income tax return or financial statement.
7. Conviction of a felony, or of any crime involving moral turpitude, under the laws of the United States, of Virginia, or of any other state if the acts involved would have constituted a crime under the laws of Virginia.
8. Lack of the competence required to provide services to the public using the CPA title for persons

and entities located in Virginia or to provide attest services ~~and~~, compilation services, *and financial statement preparation services* to persons and entities located in Virginia, as determined by the Board.

C. The Board may also impose penalties on:

1. A person who does not hold a Virginia license, or who does not meet the requirements to use the CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411, and commits any of the acts prohibited by § 54.1-4414; or

2. An entity that does not meet the criteria prescribed by subdivision D 1 of § 54.1-4412.1 and commits any of the acts prohibited by § 54.1-4414.