CHAPTER 2

Accountants

ARTICLE 1

Regulation of Certified Public Accountants and Public Accountants

**SECTION 40‑2‑5.** Purpose of chapter.

 It is the policy of this State, and the purpose of this chapter, to promote the reliability of information used for guidance in financial transactions or for accounting or for assessing the financial status or performance of commercial, noncommercial, and governmental enterprises. The public interest requires that persons professing special competence in accountancy or offering assurance of the reliability or fairness of presentation of such information shall have demonstrated their qualifications, and that persons who have not demonstrated and maintained such qualifications not be permitted to represent themselves as having special competency or offering such assurance; that the conduct of persons licensed as having special competence in accountancy be regulated in all aspects of their professional work; that a public authority competent to prescribe and assess the qualifications and to regulate the conduct of licensees be established; and that the use of titles with a capacity or tendency to deceive the public of the status or competence of the persons using such titles be prohibited.

HISTORY: 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑10.** South Carolina Board of Accountancy created; membership; terms; filling of vacancies; administrator.

 (A)(1) There is created the South Carolina Board of Accountancy which is responsible for the administration and enforcement of this chapter. The board shall consist of eleven members appointed by the Governor, all of whom must be residents of this State and:

 (a) there must be one resident licensed certified public accountant from each congressional district and one additional resident licensed certified public accountant from the public at large;

 (b) one member must be a licensed public accountant or a licensed accounting practitioner; and

 (c) two members must be from the public at large, one of whom must be an attorney licensed in this State, who:

 (i) are not engaged in the practice of public accounting;

 (ii) have no financial interest in the profession of public accounting; and

 (iii) have no immediate family member in the profession of public accounting. As used in this section, "immediate family member" is defined in Section 8‑13‑100(18).

 (2) Members are appointed for terms of four years and serve until their successors are appointed and qualify. Vacancies must be filled by the Governor for the unexpired portions of the term in the manner of the original appointment. The Governor shall remove a member of the board in accordance with Section 1‑3‑240.

 (3) Failure by a licensed certified public accountant to maintain residency in the district for which he is appointed shall result in the forfeiture of his office.

 (B) The board shall elect annually from among its members a chairman, a vice chairman, and a secretary. The board shall meet at least two times a year at places fixed by the chairman. Meetings of the board must be open to the public except those concerned with investigations under Section 40‑2‑80 and except as necessary to protect confidential information in accordance with board regulations, federal law, state law, or Section 40‑2‑90(C). A majority of the board members in office constitutes a quorum at any meeting of the board. A board member shall attend meetings or provide proper notice and justification of inability to attend. Unexcused absences from meetings may result in removal from the board as provided for in Section 1‑3‑240.

 (C) The board shall have a seal which must be judicially noticed. In any court proceeding, civil or criminal, arising out of or founded upon any provision of this chapter, copies of any records certified as true copies under the seal of the board are admissible in evidence as proving the contents of these records.

 (D) All monies collected by the Department of Labor, Licensing and Regulation from fees authorized to be charged by this chapter must be received and accounted for by the Department of Labor, Licensing and Regulation and must be deposited in the State Treasury. The budget of the board must include adequate funds for the expenses of administering the provisions of this chapter, which may include, but is not limited to, the costs of conducting investigations, of taking testimony, and of procuring the attendance of witnesses before the board or its committees; all legal proceedings undertaken for the enforcement of this chapter; participation in national efforts to regulate the accounting profession, and educational and licensing programs for the benefit of the public, the licensees and their employees. Initial fees must be established by the board and shall serve as the basis for necessary adjustments in accordance with Section 40‑1‑50(D).

 (E) The board may appoint committees or persons, to advise or assist it in the administration and enforcement of this chapter, as it sees fit.

 (F)(1) The director shall designate for the use of the board one full‑time administrator who is a certified public accountant licensed in this State. The administrator's primary responsibility is to administer the board.

 (2) A person employed by the board under this section may be terminated by the director.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2014 Act No. 268 (H.3459), Section 1, eff June 9, 2014; 2015 Act No. 51 (S.301), Section 1, eff June 3, 2015; 2019 Act No. 68 (H.3785), Section 1, eff May 16, 2019; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2014 Act No. 268, Section 1, added subsection (F), relating to the administrator.

2015 Act No. 51, Section 1, rewrote (A).

2019 Act No. 68, Section 1, in (B), in the third sentence, substituted " Section 40‑2‑80" for "Sections 40‑2‑80 and 40‑2‑90" and ", federal law, state law, or Section 40‑2‑90(C)" for "or state law".

2022 Act No. 174, Section 1, in (A)(1), in (a), inserted "and one additional resident licensed certified public accountant from the public at large" following "congressional district", and in (b), substituted "one member" for "two members"; and in (F)(1), in the second sentence, deleted "; provided, however, that the director may assign to the administrator additional duties and responsibilities within the department so long as the additional duties and responsibilities do not unreasonably occupy the administrator's time so that he does not thoroughly fulfill his duties and responsibilities to the board" from the end.

**SECTION 40‑2‑20.** Definitions.

 As used in this chapter:

 (1) "AICPA" means the American Institute of Certified Public Accountants or successor organizations.

 (2)(a) "Attest' means providing the following 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 to be performed in accordance with the Statements 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);

 (iv) any engagement to be performed in accordance with Public Company Accounting Oversight Board (PCAOB) Auditing Standards; or

 (v) any examination, review, or agreed upon procedure to be performed in accordance with the SSAE, other than an examination described in subitem (c).

 (b) Any standards specified in this definition shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by national accountancy organizations, such as the AICPA or the PCAOB.

 (3) "Board" means the South Carolina Board of Accountancy.

 (4) "Client" means a person or entity that agrees with a licensee or licensee's employer to receive any professional service.

 (5) "Client records" means those accounting records or other records provided by a client or removed from a client's premises, including hardcopy and electronic reproductions of records, that belong to the client and that were provided to a certified public accountant, public accountant, or accounting practitioner by, or on behalf of, the client.

 (6) "Compilation" means providing a service of any compilation engagement to be performed in accordance with SSARS.

 (7) "CPA‑prepared records" means accounting or other records that a licensee or firm was not specifically engaged to prepare and that are not in a client's books and records or are otherwise not available to the client, which render the client's financial or tax information incomplete. Examples include adjusting, closing, combining, and consolidating journal entries, including computations supporting journal entries; depreciation schedules and supporting schedules; and documents that were proposed or prepared as part of an engagement.

 (8) "CPA work papers" are all other records created in the course of an engagement that are not client records, CPA work products or CPA‑prepared records.

 (9) "CPA work products" are deliverables set forth in the terms of an engagement, such as tax returns.

 (10) "Department" means the Department of Labor, Licensing and Regulation.

 (11) "Direct" means the person supervised in the usual line of authority or is in a staff position reporting to the supervisor.

 (12) "Electronic files" means data files in a format created by software commonly available to the general public such as Adobe Acrobat, Microsoft Excel or Word, and consumer accounting programs. Electronic files do not include data files in a format created by proprietary software or software commonly unavailable to the general public.

 (13) "Experience" means providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills whether gained through employment in government, industry, academia, or public practice.

 (14) "Firm" means a sole proprietorship, a corporation, a partnership, or any other form of organization registered under this chapter. "Firm" includes a person or persons practicing public accounting in the form of a proprietorship, partnership, limited liability partnership, limited liability company, or professional corporation or association.

 (15) "Firm ownership" means one hundred percent of the partners, members, managers, shareholders, and equity owners in a firm, which must be owners.

 (16) "License" means authorization to practice as issued under this chapter.

 (17) "Licensee" means the holder of a license.

 (18) "Manager" means a licensee in responsible charge of an office.

 (19) "NASBA" means the National Association of State Boards of Accountancy

 (20) "Non‑CPA owner" means any owner in a firm who is not a currently licensed certified public accountant.

 (21) "Owner" means any person who owns all or part of a firm.

 (22) "Peer review" means a study, appraisal, or review of one or more aspects of the professional work of a licensee of the board or a firm registered with the board that performs attest or compilation services by a person or persons who hold certificates and who are not affiliated with the certificate holder or certified public accountant firm being reviewed.

 (23) "Practice of accounting" means:

 (a) issuing a report on financial statements of a person, firm, organization, or governmental unit or offering to render or rendering any attest or compilation service. This restriction does not prohibit any act of a public official or public employee in the performance of that person's duties or prohibit the performance by a nonlicensee 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; or

 (b) using or assuming the title "Certified Public Accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant.

 (24) "Preparation of financial statements" means any preparation of financial statements engagement to be performed in accordance with SSARS.

 (25) "Principal place of business" means the office location designated by a licensee for the purposes of substantial equivalency and reciprocity.

 (26) "Professional" means arising out of or related to the specialized knowledge or skills associated with licensees.

 (27) "Registration" means an authorization, issued under this chapter, to practice as a firm.

 (28) "Renewal due date" is February first of a licensing year.

 (29) '"Renewal lapse date" is a date fifteen days subsequent to the renewal date.

 (30) "Report", when used with reference to any attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of the attested information or compiled financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competency in accounting or auditing. This statement or implication of special knowledge or competency may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor. The term "report" includes any form of language which disclaims an opinion when the form of language is conventionally understood to imply positive assurance as to the reliability of the attested information or compiled financial statements referred to or special competency on the part of the person or firm issuing such language, or both; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competency, or both.

 (31) "Resident manager" means a responsible party for a firm.

 (32) "State" means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Guam; except that "this State" means the State of South Carolina.

 (33) "Substantial equivalency" or "substantially equivalent" is a determination by the board or its designee that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed the completion of, a baccalaureate or higher degree in an accounting concentration that includes one hundred fifty semester hours of education, at least one year of acceptable experience, and successful completion of the Uniform CPA Examination. Any jurisdiction found to be substantially equivalent by NASBA's National Qualification Appraisal Service is considered to be substantially equivalent to this State. In ascertaining substantial equivalency as used in this chapter, the board or its designee shall take into account the qualifications without regard to the sequence in which experience, education, or examination requirements were attained.

 (34) "Supervision" means having jurisdiction, oversight, or authority over the practice of accounting and over the people who practice accounting.

 (35) "Uniform CPA Examination" means the Uniform Certified Public Accountant Examination as prepared by the AICPA.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2008 Act No. 351, Sections 1, 2; 2015 Act No. 51 (S.301), Sections 2.A, 2.B, 2.C, eff June 3, 2015; 2019 Act No. 68 (H.3785), Section 2, eff May 16, 2019; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2015 Act No. 51, Sections 2.A, 2.B, 2.C, in (2), deleted "financial statement" before "services", and added (e); in (15)(a), deleted "on the financial statement" following "without the issuance of reports"; and in (17), substituted "any attest or compilation service" for "financial statements" and "reliability of the attested information or compiled financial statement" for "reliability of a financial statement" in the first sentence, and inserted "attested information or compiled" before "financial statements referred to" in the third sentence.

2019 Act No. 68, Section 2, rewrote (5).

2022 Act No. 174, Section 1, rewrote the section.

**SECTION 40‑2‑30.** Licensing or registration requirement; form for issuance of report by person other than CPA or PA; use of titles CPA and PA; exemptions.

 (A) It is unlawful for a person to engage in the practice of accountancy as regulated by this board without holding a valid license or registration or without qualifying for a practice privilege pursuant to Section 40‑2‑245.

 (B) Only licensed certified public accountants or public accountants or individuals qualifying for a practice privilege pursuant to Section 40‑2‑245 may issue a report on financial statements of a person, firm, organization, or governmental unit or offer to render or render any attest or compilation service as defined, except as provided in Section 40‑2‑610. This restriction does not prohibit an act of a public official or public employee in the performance of that person's duties or prohibit the performance by any nonlicensee 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.

 (C) Persons, other than certified public accountants or public accountants, may prepare financial statements and issue nonattest transmittals or information thereon which do not purport to be in compliance with the SSARS. Transmittals using the following language must not be considered the unlicensed practice of accountancy:

 "I (we) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing 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."

 (D) Only a person holding a valid license as a certified public accountant or qualifying for a practice privilege under Section 40‑2‑245 shall use or assume the title "Certified Public Accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the person is a certified public accountant.

 (E) A firm may not provide attest services or assume or use the title "Certified Public Accountants", "Public Accountants" or the abbreviation "CPAs" and "PAs", or any other title, designation, words, letters, abbreviation, sign, card, or device indicating the firm is a CPA firm unless:

 (1) the firm holds a valid registration issued under this chapter or is exempt from the registration requirement by operation of subsection (I);

 (2) ownership of the firm is in accordance with Section 40‑2‑40(C) and implementing regulations promulgated by the board, unless the firm is exempt from the registration requirement by operation of subsection (I); and

 (3) owners who are not certified public accountants must be permitted to use the titles "principal", "partner", "owner", "officer", "member", or "shareholder" but must not hold themselves out to be certified public accountants.

 (F) A person must not assume or use the title "Public Accountant" or the abbreviation "PA" or any other title, designation, words, letters, abbreviation, sign, card, or device indicating that the person is a public accountant unless that person holds a valid registration issued under this chapter.

 (G)(1) Only a person or firm holding a valid license or registration issued under this chapter, an individual qualifying for practice privileges under Section 40‑2‑245, or a firm exempt from the registration requirement by operation of subsection (I) shall assume or use any title or designation likely to be confused with the titles "Certified Public Accountant" or "Public Accountant" or use a similar abbreviation likely to be confused with the abbreviations "CPA" or "PA". The title "Enrolled Agent" or "EA" may only be used by individuals designated by the Internal Revenue Service.

 (2) Persons or firms that are not licensed or registered, individuals qualifying for practice privileges under Section 40‑2‑245, and firms exempt from the registration requirement by operation of subsection (I) may use designations granted by national accrediting organizations so long as those designations do not imply qualification to render any attest or compilation service.

 (H) This section does not apply to a person or firm holding a certification, designation, degree, or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in that country; whose activities in this State are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement; who performs no attest or compilation services and who issues no reports, as defined in this chapter, with respect to the information of any other persons, firms, or governmental units in this State; and who does not use in this State any title or designation other than the one under which the person practices in their country, followed by a translation of the title or designation into the English language, if it is in a different language, and by the name of the country.

 (I)(1) Firms that do not have an office in this State may engage in the practice of accounting, without obtaining a registration pursuant to Section 40‑2‑40, as specified in this subsection.

 (2) A firm described in item (1) may perform services described in Section 40‑2‑20(2) for a client in this State, may engage in the practice of accounting, as specified in this section, and may use the title "CPA" or "CPA firm" only if the firm:

 (a) has the qualifications described in Section 40‑2‑40(C) and Section 40‑2‑255(C);

 (b) performs these services through an individual with practice privileges under Section 40‑2‑245; and

 (c) can lawfully perform these services in the state where the individual with practice privileges under Section 40‑2‑245 has his principal place of business.

 (3) A firm described in item (1) that is not subject to the requirements of item (2) may perform other professional services within the practice of accounting while using the title "CPA" or "CPA firm" in this State only if the firm:

 (a) performs these services through an individual with practice privileges under Section 40‑2‑245; and

 (b) can lawfully do so in the state where these individuals with practice privileges have their principal place of business.

 (4) Notwithstanding any other provision of this section, it is not a violation of this section for a firm that does not hold a valid permit under Section 40‑2‑40 and which does not have an office in this State to provide its professional services or to engage in the practice of accounting so long as it complies with the requirements of item (2) or (3), whichever is applicable.

 (J) Notwithstanding another provision of law, a licensed certified public accountant while in the performance of his duties is exempt from the licensing requirements of Chapter 18 of this title.

HISTORY: 1996 Act No. 453, Section 1; 1998 Act No. 325, Section 2; 2004 Act No. 289, Section 1; 2008 Act No. 351, Section 3; 2014 Act No. 268 (H.3459), Section 2, eff June 9, 2014; 2015 Act No. 51 (S.301), Sections 3.A, 3.B, eff June 3, 2015; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2014 Act No. 268, Section 2, added subsection (J), relating to exemption from private security and investigator requirements.

2015 Act No. 51, Sections 3.A, 3.B, in (B), deleted "on the financial statements" at the end; in (H), substituted "reports, as defined in this chapter, with respect to the information" for "reports with respect to the financial statements"; (I)(2), substituted "item (1)" for "subsection (I)(1)", and deleted "(2)(e)" before "or (5)"; in (I)(3), substituted "item (1)" for "subsection (I)(1)", and substituted "item (2)" for "subsection (I)(2)"; and in (I)(4), substituted "item (2)" for "subsection (I)(2)".

2022 Act No. 174, Section 1, rewrote the section.

**SECTION 40‑2‑35.** Requirements for license to practice; fulfilling education, examinations, and experience requirements.

 (A) The board shall grant a license to practice as a certified public accountant to persons who make application and provide the following:

 (1) evidence of good moral character, which includes a lack of a history of:

 (a) any conviction of a felony that has an element of dishonesty or fraud or any other crime that has an element of dishonesty or fraud, under the laws of the United States, of this State, or of any other state if the acts involved constitute a crime under state laws;

 (b) an active or stayed revocation or suspension of any occupational license, privilege, or other authority to practice any licensed occupation by or before any state, federal, foreign, or other licensing or regulatory authority, provided that the grounds include wrongful conduct, such as fraud, dishonesty, or deceit, or any other conduct that evidences any unfitness of the applicant to practice public accountancy; and

 (c) any acts that would be grounds for the revocation or suspension of a license if committed by a licensee;

 (2) a transcript or transcripts showing that the candidate meets the educational requirements pursuant to subsection (C);

 (3) evidence of a passing score on a standardized test of accounting knowledge, skills, and abilities approved by the board and substantially equivalent to the Uniform CPA Examination;

 (4) evidence of a passing score on an examination in professional ethics as approved by the board and an affidavit by the candidate acknowledging that he or she has read the statute and regulations governing the practice of accountancy in South Carolina and subscribes both to the spirit and letter of the statute and regulations and agrees to observe them faithfully in the performance of his or her professional work; and

 (5) evidence of appropriate experience.

 (B)(1) In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for licensure to practice as a certified public accountant, the board may require a state criminal records check, including fingerprints, performed by the South Carolina Law Enforcement Division, and a national criminal records check, including fingerprints, performed by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the board. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the board regarding criminal charges. The board shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action.

 (2) Notwithstanding any other provision of law to the contrary, the dismissal of a prosecution of fraudulent intent in drawing a dishonored check by reason of want of prosecution or proof of payment of restitution and administrative costs must not be used as evidence of a lack of good moral character for the purposes of disqualifying a person seeking licensure or renewal of licensure pursuant to this chapter.

 (3) The applicant must bear all costs associated with conducting criminal records checks.

 (C)(1) To meet the educational requirement as part of the one hundred fifty semester hours of education needed for licensure, the applicant must demonstrate successful completion of:

 (a) a baccalaureate, masters, or doctoral degree;

 (b) at least twenty‑four semester credit hours, or the substantial equivalent, of accounting courses that are applicable to a baccalaureate, masters, or doctoral degree and that cover some or all of the following subject‑matter content, excluding principles or introductory accounting courses: financial accounting for business organizations, financial statement auditing and attestation services, taxation, accounting information systems, financial accounting for government and not‑for‑profit entities, managerial or cost accounting, mergers and acquisitions, accounting‑based data analytics and interrogation techniques, financial planning, fraud examination, internal controls and risk assessment, financial statement analysis, accounting research and analysis, tax research and analysis, accounting professional ethics, and other areas approved by the board taught at the junior level or above; and

 (c) at least twenty‑four semester credit hours, or the substantial equivalent, of business courses, other than accounting, that are applicable to a baccalaureate, masters, or doctoral degree and that cover some or all of the following subject‑matter content: business law, economics, management, marketing, finance, business communications, statistics, quantitative methods, data analytics, data interrogation techniques, business data acumen, information systems or technology, business ethics, and other areas approved by the board and which may include semester credit hours, or the substantial equivalent, in accounting content not used toward meeting the requirement in subitem (b).

 (2) The board may review and accept individual courses and educational programs determined to be substantially equivalent to the foregoing.

 (D) The board shall accept transcripts from a college or university holding an accreditation from an accreditation body approved by the United States Department of Education and shall accept education, training, and experience completed by an individual as a member of the military in Section 40‑1‑640. Official transcripts signed by the college or university registrar and bearing the college or university seal or verification through any service provided by NASBA must be submitted to demonstrate education and degree requirements. Photocopies of transcripts must not be accepted.

 (E) An applicant may apply for examination by submitting forms approved by the board. In order for an application to be considered a completed application, all blanks and questions on the application form must be completed and answered and all applicable documentation must be attached and:

 (1) the application must be accompanied by the submission of photo identification, fingerprints, or other identification information as considered necessary to ensure the integrity of the exam administration;

 (2) application fees must accompany the application. Fees for the administration of the examination must recover all costs for examination administration. The fees required for each examination must be published to applicants on the application form. If any payment form used in payment of examination fees fails to clear the bank, the application is considered incomplete and the application must be returned to the candidate; and

 (3) the applicant must have on record with the board official transcripts that meet the education requirement and that demonstrate successful completion of at least one hundred twenty semester hours credit, including:

 (a) at least twenty‑four semester hours of accounting in course areas that are applicable to a baccalaureate, masters, or doctoral degree, including a minimum of six semester credit hours at the undergraduate level or three semester credit hours at the graduate level of principles or introductory accounting. The remaining semester credit hours, or the substantial equivalent, must cover some or all of the following subject‑matter content: financial accounting for business organizations, financial statement auditing and attestation services, taxation, accounting information systems, financial accounting for government and not‑for‑profit entities, managerial or cost accounting, mergers and acquisitions, accounting‑based data analytics and interrogation techniques, financial planning, fraud examination, internal controls and risk assessment, financial statement analysis, accounting research and analysis, tax research and analysis, accounting professional ethics, and other areas approved by the board; and

 (b) at least twenty‑four semester hours of business courses that are applicable to a baccalaureate, masters, or doctoral degree and that cover some or all of the following subject‑matter content: business law, economics, management, marketing, finance, business communications, statistics, quantitative methods, data analytics, data interrogation techniques, business data acumen, information systems or technology, business ethics, and other areas approved by the board, which may include semester credit hours, or the substantial equivalent, in accounting content not used toward meeting the requirement in subitem (a).

 (F) To meet the exam requirement, a candidate must pass all sections of the Uniform CPA Examination.

 (1) A candidate may take the required test sections individually and in any order. Credit for any test section passed is valid for eighteen months from the actual date the candidate took that test section, without having to attain a minimum score on any failed test section and without regard to whether the candidate has taken other test sections.

 (a) A candidate must pass all sections of the Uniform CPA Examination within a rolling eighteen‑month period, which begins on the date that the first test section is passed. The board by regulation may provide additional time to an applicant on active military service. The board also may accommodate any hardship which results from the conditions of administration of the examination.

 (b) A candidate who applies for a license more than three years after the date upon which the candidate passed the last section of the Uniform CPA Examination must also document one hundred twenty hours of acceptable continuing professional education in order to qualify, in addition to all other requirements imposed by this section.

 (2) A candidate may arrange to have credits for passing sections of the Uniform CPA Examination under the jurisdiction of another state or territory of the United States transferred to this State. Credits transferred for less than all sections of the examination are subject to the same conditional credit rules as if the examination had been taken in South Carolina.

 (G) An applicant shall attain the following experience:

 (1) at least one year of accounting experience, which must include providing a service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills verified by a CPA in industry, academia, or public practice or verified by a valid report from NASBA's Experience Verification. This experience may be supervised by a non‑licensee but must be verified by a CPA with direct knowledge of the experience who is licensed to practice accounting in some state or territory of the United States or the District of Columbia;

 (2) teaching experience to include at least twenty‑four semester hours of teaching courses that are applicable to a baccalaureate, masters, or doctoral degree and which may cover subject matter areas such as financial accounting, taxation, and auditing, taught at the intermediate accounting level or above. This experience may be supervised by a non‑licensee but must be verified by a CPA with direct knowledge of the experience who is licensed to practice accounting in any state or territory of the United States;

 (3) submitting Substantial Equivalency Evaluation report from the NASBA National Qualification Appraisal Service verification that his CPA qualifications are substantially equivalent to the CPA licensure requirements of the AICPA and NASBA Uniform Accountancy Act; or

 (4) any combination of experience determined by the board to be substantially equivalent to the foregoing.

 (H) Qualifying experience for licensure cannot be earned until an applicant meets the requirements of subsection (E)(3)(a).

 (I)(1) An applicant may demonstrate experience as follows:

 (a) to meet the one‑year accounting experience requirement:

 (i) accounting experience may be gained in either full‑time or part‑time employment;

 (ii) two thousand hours of part‑time accounting experience is equivalent to one year;

 (iii) accounting experience may not accrue more rapidly than forty hours per week; and

 (iv) the applicant must show evidence of meeting the accounting experience requirement in a manner prescribed by the board;

 (b) to meet the twenty‑four semester hour teaching experience requirement in academia:

 (i) teaching experience may not accrue more rapidly than elapsed chronological time;

 (ii) an applicant must not be granted credit for teaching more than twenty‑four semester hours completed in less than one academic year; and

 (iii) semester hours must not be granted for teaching subjects outside the scope of the Uniform CPA Examination;

 (c) to meet other qualifying experience requirements:

 (i) experience other than accounting experience and teaching experience counts only in proportion to duties which, in the opinion of the board, contribute to competence in public accounting; and

 (ii) the board may require other information as it considers reasonably necessary to determine the acceptability of experience.

 (2) Any applicant using experience obtained seven or more years before submitting an application shall have obtained additional experience within the two‑year period prior to submitting the application, as defined in subsection (G).

HISTORY: 2004 Act No. 289, Section 1; 2008 Act No. 351, Section 4; 2015 Act No. 51 (S.301), Section 4, eff June 3, 2015; 2019 Act No. 68 (H.3785), Section 3, eff May 16, 2019; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2015 Act No. 51, Section 4, added (B) and redesignated former (C) through (F) accordingly; in (e)(3)(b), substituted "subitem (a)" for "item (a)"; in (F), substituted "subsection (a)(2)" for "Section 40‑2‑35(A)"; added (F)(1)(c); in (G)(2), substituted "subsection (A)(4)(b)" for "Section 40‑2‑35(A)(4)(b)"; in (G)(2)(a), substituted "teaching fewer than twelve hours per semester" for "teaching less than twelve semester hours per year"; and added (G)(3).

2019 Act No. 68, Section 3, in (F)(1), substituted "A candidate" for "Upon the implementation of a computer‑based examination, a candidate".

2022 Act No. 174, Section 1, rewrote the section.

**SECTION 40‑2‑40.** Grant or renewal of registration to practice as firm; qualifications for registration; changes in identities of partners or officers.

 (A) The board shall grant or renew a registration to practice as a firm to applicants that demonstrate their qualifications in accordance with this section.

 (B) The following must hold a registration issued pursuant to this section:

 (1) a firm with an office in this State performing attest services as defined in Section 40‑2‑20(2) or engaging in the practice of accounting;

 (2) a firm with an office in this State that uses the title "CPA" or "CPA firm"; or

 (3) a firm that does not have an office in this State but performs attest services described in Section 40‑2‑20(2) for a client in this State, unless it is exempt from registration pursuant to Section 40‑2‑30(I).

 (C) Qualifications for registration as a certified public accountant firm are as follows:

 (1) A simple majority of the firm ownership in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers must belong to certified public accountants currently licensed in some state. Although firm ownership may include non‑CPA owners, the firm and its owners must comply with regulations promulgated by the board. All non‑CPA owners must be active individual participants in the firm or affiliated entities.

 (2) Partners, officers, shareholders, members, or managers whose principal place of business is in this State, and who also perform professional services in this State, must hold a valid license issued pursuant to this section. An individual who has practice privileges under Section 40‑2‑245 must not be required to obtain a license from this State pursuant to Section 40‑2‑35.

 (3) For firms registering under subsection (B)(1)(a) or (b), there must be a designated resident manager in charge of each office in this State who must be a certified public accountant licensed in this State.

 (4) Non‑CPA owners must not assume ultimate responsibility for any financial statement, attest, or compilation engagement.

 (5) Non‑CPA owners shall abide by the code of professional ethics adopted pursuant to this chapter.

 (6) Owners shall at all times maintain ownership equity in their own right and must be the beneficial owners of the equity capital ascribed to them. Provision must be made for the ownership to be transferred to the firm or to other qualified owners if the noncertified public accountant ceases to be an active individual participant in the firm.

 (7)(a) This section applies only to non‑CPA owners who are residents of this State.

 (b) Non‑CPA owners must complete the same number of hours of continuing professional education as licensed certified public accountants in this State, including the annual ethics requirement pursuant to Section 40‑2‑250(C)(6).

 (c) Non‑CPA owners who are licensed professionals subject to continuing education requirements applicable to that profession may complete the required number of continuing professional education hours in courses offered or accepted by organizations or regulatory bodies governing that profession, and also must complete the same number of hours of continuing professional education as licensed certified public accountants in this State.

 (8) A certified public accounting firm and its designated resident manager under item (3) are responsible for the following in regard to a noncertified public accountant owner:

 (a) a non‑CPA owner shall comply with all applicable accountancy statutes and regulations; and

 (b) a non‑CPA owner shall be of good moral character and shall not engage in any conduct that, if committed by a licensee, would constitute a violation of the regulations promulgated by the board.

 (D) Registration must be initially issued and renewed annually. Applications for registration must be made in such form, and in the case of applications for renewal, between such dates as the board by regulation may specify, and the board shall grant or deny any such application after filing in proper form.

 (E) Any firm applicant for initial issuance or renewal of a registration to practice pursuant to this chapter shall register each firm within this State with the board and shall demonstrate that all attest and compilation services rendered in this State are under the charge of a person holding a valid license issued pursuant to this section or the corresponding provision of prior law or of some other state.

 (F) The board may charge a fee for each application for initial issuance or renewal of a registration issued pursuant to this section.

 (G) An applicant for initial issuance or renewal of a registration to practice pursuant to this chapter shall list on the application all states in which the firm has applied for or holds registration and shall list any past denial, revocation, or suspension of a registration by any other state.

 (H) Each holder of or applicant for a registration issued pursuant to this section shall notify the board in writing, within thirty days after its occurrence, of any change in the identities of partners, officers, shareholders, members, or managers whose principal place of business is in this State, any change in the number or location of offices within this State, any change in the identity of the licensee in charge of these offices, and any issuance, denial, revocation, or suspension of a registration by any other state.

 (I) A firm that falls out of compliance with the provisions of this section due to changes in firm ownership or personnel, after receiving or renewing a permit, shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take this corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board shall result in the suspension or revocation of the firm permit.

HISTORY: 1996 Act No. 453, Section 1; 2000 Act No. 274, Section 2; 2004 Act No. 289, Section 1; 2008 Act No. 351, Section 5; 2015 Act No. 51 (S.301), Section 5, eff June 3, 2015; 2019 Act No. 68 (H.3785), Section 4, eff May 16, 2019; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2015 Act No. 51, Section 5, rewrote (C)(1); in (C)(6), substituted "an active individual participant" for "actively engaged"; added (C)(7) and (C)(8); reenacted (D) with no change; in (E), deleted "office of the" following "shall register each"; and in (F), substituted "may charge" for "shall charge".

2019 Act No. 68, Section 4, in (C)(7)(b), added the second sentence, providing for certain ethics requirements.

2022 Act No. 174, Section 1, made a nonsubstantive change in (A); rewrote (B) and (C); and in (E), substituted "Any firm applicant" for "An applicant".

**SECTION 40‑2‑70.** Powers and duties of board.

 (A) In addition to the powers and duties provided in Section 40‑1‑70, the board may:

 (1) determine the eligibility of applicants for examination and licensure and may use the assistance of NASBA‑provided tools;

 (2) examine applicants for licensure including, but not limited to:

 (a) prescribing the subjects, character, and manner of licensing examinations;

 (b) preparing, administering, and grading the examination or assisting in the selection of a contractor to prepare, administer, or grade the examination; and

 (c) charging, or authorizing a third party administering the examination to charge, each applicant a fee in an amount adequate to cover examination costs;

 (3) establish criteria for issuing, renewing, and reactivating authorizations for qualified applicants to practice, including issuing active or permanent, temporary, limited, and inactive licenses or other categories as may be created;

 (4) adopt a code of professional ethics appropriate to the profession;

 (5) evaluate and approve continuing professional education course hours and programs;

 (6) conduct periodic inspections of licensees or firms with notice to the licensee or firm of at least three business days, and if upon inspection a violation is found, a formal complaint shall be filed and the customary procedures for complaints must be followed;

 (7) conduct hearings on alleged violations of this chapter and regulations promulgated under this chapter;

 (8) participate in national efforts to regulate the accounting profession;

 (9) discipline licensees or registrants in a manner provided for in this chapter;

 (10) project future activity of the program based on historical trends and program requirements, including the cost of licensure and renewal, conducting investigations and proceedings, participating in national efforts to regulate the accounting profession, and providing educational programs for the benefit of the public and licensees and their employees;

 (11) issue safe harbor language nonlicensees may use in connection with financial statements, transmittals, or financial information which does not purport to be in compliance with the SSARS;

 (12) promulgate regulations that have been submitted to the director at least thirty days in advance of filing with the Legislative Council as required by Section 1‑23‑30 including, but not limited to, a schedule of fees for examination, licensure, and regulation;

 (13) promulgate standards for peer review; and

 (14) issue non‑binding interpretations of statutes and regulations based on a written set of facts and a request from any member of the public, including licensees and the board.

 (B) All public board orders, interpretations, and policies of this chapter must be made available to the public in an electronic format organized by applicable law or regulation.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2014 Act No. 268 (H.3459), Section 3, eff June 9, 2014; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2014 Act No. 268, Section 3, in paragraphs (2)(b) and (12), added "and" at the end; added paragraph (6), relating to periodic inspections; and redesignated the paragraphs accordingly.

2022 Act No. 174, Section 1, inserted the (A) designator, in (1), inserted "and may use the assistance of NASBA‑provided tools" at the end, in (2)(c), substituted "amount adequate" for "adequate amount", in (5), substituted "professional education" for "education", in (11), substituted "SSARS" for "Statements on Standards or Accounting and Review Services (SSARS)", made nonsubstantive changes in (12) and (13), and inserted (14); and added (B).

**SECTION 40‑2‑80.** Investigations of complaints or other information suggesting violations; report.

 (A) The department, upon receipt of a complaint or other information suggesting violation of this chapter or of regulations promulgated pursuant to this chapter, shall conduct an appropriate investigation to determine whether there is probable cause to institute proceedings. An investigation under this section is not a prerequisite to conducting proceedings if a determination of probable cause can be made without investigation. In aid of investigations, the administrator of the board shall issue subpoenas to compel witnesses to testify and to produce evidence, as necessary for an appropriate investigation.

 (B)(1) An investigation of a licensee pursuant to this chapter must be performed by an inspector‑investigator who has been licensed as a certified public accountant in this State for at least five years. The inspector‑investigator must report the results of his investigation to the board no later than one hundred fifty days after the date upon which he initiated his investigation. If the inspector‑investigator has not completed his investigation by that date, then the board may extend the investigation for a period defined by the board. The board may grant subsequent extensions to complete the investigation as needed. The inspector‑investigator may designate additional persons of appropriate competency to assist in an investigation.

 (2) The department shall annually post a report related to the number of complaints received, the number of investigations initiated, the average length of investigations, and the number of investigations that exceeded one hundred fifty days.

 (C) The results of an investigation must be presented to the board.

 (D) For the purpose of an investigation under this section, the department may administer oaths and issue subpoenas for the attendance and testimony of witnesses and the production and examination of books, papers, and records as necessary for an appropriate investigation and on behalf of the board or, upon request, on behalf of a party to the case. Upon failure to obey a subpoena or to answer questions propounded by the board or its hearing officer or panel, the board may apply to the Administrative Law Court for an order requiring compliance with the subpoena.

 (E) The testimony and documents submitted in support of the complaint or gathered in the investigation must be treated as confidential information and must not be disclosed to any person except law enforcement authorities and, to the extent necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation. All proceedings related to the investigations and inquiries during the investigation process undertaken pursuant to this chapter are confidential, unless the licensee or registrant who is the subject of the investigation or inquiry waives the confidentiality of the existence of the complaint.

 (F) The board may review the publicly available professional work of licensees, and all professional work submitted to the State, on a general and random basis, without any requirement of a formal complaint or suspicion of impropriety. If as a result of a review the board discovers reasonable grounds for a more specific investigation, the board may proceed under subsections (A) through (E).

 (G) If the department receives information indicating a possible violation of state or federal law, the department may provide that information, to the extent the department considers necessary, to the appropriate state or federal law enforcement agency or regulatory body.

 (H)(1) In an investigation or disciplinary proceeding concerning a licensee, the department may require a state criminal records check, including fingerprints, performed by the South Carolina Law Enforcement Division, and a national criminal records check, including fingerprints, performed by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. The department shall keep information received pursuant to this section confidential, except that information relied upon in an administrative action may be disclosed as may be necessary to support the administrative action.

 (2) Notwithstanding any other provision of this section or any other provision of law, the dismissal of a prosecution of fraudulent intent in drawing a dishonored check by reason of want of prosecution or proof of payment of restitution and administrative costs must not be used as evidence of performance of a fraudulent act for disciplinary purposes.

 (3) Costs of conducting a criminal records check are the responsibility of the department and may be recovered as administrative costs associated with an investigation or hearing pursuant to this chapter unless ordered by the department as a cost in a disciplinary proceeding.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2014 Act No. 268 (H.3459), Section 4, eff June 9, 2014; 2015 Act No. 51 (S.301), Section 6, eff June 3, 2015; 2019 Act No. 68 (H.3785), Section 5, eff May 16, 2019; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2014 Act No. 268, Section 4, rewrote subsection (B).

2015 Act No. 51, Section 6, added (H).

2019 Act No. 68, Section 5, in (E), added the second sentence, providing that all proceedings and inquiries related to the investigations are confidential except when the subject of an investigation waives confidentiality of the existence of the complaint.

2022 Act No. 174, Section 1, in (A), in the third sentence, substituted "shall issue subpoenas to compel witnesses to testify and to produce evidence, as necessary for an appropriate investigation" for "may issue subpoenas to compel witnesses to testify or to produce evidence, or both"; made a nonsubstantive change in (B)(1); and in (D), in the first sentence, inserted "as necessary for an appropriate investigation and" following "and records".

**SECTION 40‑2‑90.** Report of violations to board; hearing; notice to accused licensee or registrant.

 (A) If the Department of Labor, Licensing and Regulation or the board has reason to believe that a licensee or registrant has violated a provision of this chapter or a regulation promulgated pursuant to this chapter or that a licensee has become unfit to practice as a certified public accountant, a public accountant, or an accounting practitioner the department shall present its evidence to the board and the board may, in accordance with the Administrative Procedures Act, take action as authorized by law. The board may designate a hearing officer or panel to conduct hearings or take other action as may be necessary.

 (B) The board shall notify the accused licensee or registrant in writing not less than thirty days before the hearing with a copy of the formal charges attached to the notice. The notice must be served personally or sent to the charged licensee or registrant by certified mail, return receipt requested, directed to his or her last mailing address furnished to the board. The post office registration receipt signed by the licensee or registrant, his or her agent, or a responsible member of his or her household or office staff, or if not accepted by the person to whom addressed, the postal authority stamp showing the notice refused, is prima facie evidence of service of the notice.

 (C) If a hearing is to be held, the licensee or registrant has the right to be present, to present evidence and argument on all issues involved, to present and to cross‑examine witnesses, and to be represented by counsel at the licensee's or registrant's expense. For the purpose of these hearings, the board may require by subpoena the attendance of witnesses, the production of documents and other evidence, and may administer oaths and hear testimony, either oral or documentary, for and against the accused licensee. All evidence, including the records that the board or the board's hearing panel considers, must be made part of the record in the proceedings. These hearings must be open to the public, except:

 (1) as necessary to protect confidential information in accordance with federal or state law; and

 (2) as necessary to protect confidential information provided by a client for whom a licensee performs services, or the heirs, successors, or personal representatives of the client.

 (D) Every communication, whether oral or written, made by or on behalf of any complainant to the board or its agents or any hearing panel or member pursuant to this chapter, whether by way of complaint or testimony, is privileged against liability. No action or proceeding, civil or criminal, lies against any person by whom or on whose behalf such communication has been made, except upon proof that the communication was made with malice.

 (E) Nothing contained in this section may be construed to prevent the board from making public a copy of its final order in any proceeding, as authorized or required by law.

HISTORY: 2004 Act No. 289, Section 1; 2019 Act No. 68 (H.3785), Section 6, eff May 16, 2019; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2019 Act No. 68, Section 6, rewrote (C), providing that disciplinary hearings by the board must be open to the public, except in certain circumstances, and all evidence must be made part of the record in the proceedings.

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑100.** Cease and desist order for conduct violating chapter; temporary restraining orders; injunctions.

 (A) If the board has reason to believe that a person is violating or intends to violate a provision of this chapter or a regulation promulgated pursuant to this chapter, in addition to all other remedies, it may order the person immediately to cease and desist from engaging in the conduct. If the person is practicing accountancy without being licensed pursuant to this chapter, is violating an order of the board, a provision of this chapter, or a regulation promulgated pursuant to this chapter, the board also may apply, in accordance with the rules of the Administrative Law Court for a temporary restraining order. A board member or the Director of the Department of Labor, Licensing and Regulation or another employee of the department may not be held liable for damages resulting from a wrongful temporary restraining order.

 (B) The board may seek from the Administrative Law Court other equitable relief to enjoin the violation or intended violation of this chapter or a regulation promulgated pursuant to this chapter.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑110.** Revocation, suspension, or probation of licensees; revocation of registration or limitation of scope of practice of firm.

 (A) After notice and hearing pursuant to the Administrative Procedures Act, the board may revoke, suspend, refuse to renew, reprimand, censure, or limit the scope of practice of a licensee and impose an administrative fine not exceeding ten thousand dollars per violation. The board also may place a licensee on probation, require a peer review as the board may specify, or require satisfactory completion of a continuing professional education program as the board may specify, all with or without terms, conditions, and limitations, for any one or more of the following reasons:

 (1) conviction of a felony that has an element of dishonesty or fraud or any other crime that has an element of dishonesty or fraud, under the laws of the United States, of this State, or of any other state if the acts involved constitute a crime under state laws;

 (2) conduct reflecting adversely upon the licensee's fitness to perform services as a licensee;

 (3) use of a false, fraudulent, or forged statement or document or committal of a fraudulent, deceitful, or dishonest act or omission of a material fact in obtaining licensure pursuant to this chapter;

 (4) intentional use of a false or fraudulent statement in a document connected with the practice of the individual's profession or occupation;

 (5) obtaining fees or assistance in obtaining fees under fraudulent circumstances;

 (6) failure to comply with established professional standards, including standards set by federal or state law or regulation;

 (7) violation of the code of professional ethics adopted by the board or of the AICPA Professional Standards: Code of Professional Conduct;

 (8) failure to respond to requests for information or to cooperate in investigations on behalf of the board;

 (9) engagement or aid of another, intentionally or knowingly, directly or indirectly, in unlicensed practice of accounting;

 (10) failure to disclose or disclaim the appropriate license status of a person or entity not holding a license but associated with financial statements;

 (11) engagement in advertising or other forms of solicitation or use of a firm name in a manner that is false, misleading, deceptive, or tending to promote unsupported claims;

 (12) the revocation, suspension, reprimand, or other discipline of the right to practice by the licensee in any other state or by a federal agency for a cause other than the failure to pay an annual registration fee.

 (B) After notice and hearing, as provided in Section 40‑2‑90, the board shall revoke the registration of a firm if at any time it does not meet the requirements prescribed by Section 40‑2‑40 and also may revoke, suspend, refuse to renew, reprimand, censure, or limit the scope of practice of a registrant and impose an administrative fine not to exceed ten thousand dollars per violation for any of the causes enumerated in subsection (A) or for:

 (1) the revocation or suspension or refusal to renew the license to practice of a member of a firm;

 (2) the revocation, suspension, reprimand, or other discipline of the right to practice by the firm in any other state or by a federal agency for a cause other than the failure to pay an annual registration fee;

 (3) the failure to notify the board in writing, within thirty days after its occurrence, of any revocation, suspension, reprimand, or other discipline of the right to practice by the licensee in any other state or by a federal agency.

 (C) A final order of the board disciplining a licensee under this section is public information.

 (D) Upon a determination by the board that discipline is not appropriate, the board may issue a nondisciplinary letter of caution.

 (E) The board may establish a procedure to allow a licensee who has been issued a public reprimand to petition the board for expungement of the reprimand from the licensee's record.

 (F) Licensees of this State offering or rendering services or using their "Certified Public Accountant" title in another state are subject to disciplinary action in this State for an act committed in another state for which the licensee would be subject to discipline.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, in (A)(1), substituted "that has an element of dishonesty or fraud or any other crime that has" for ", or of any crime with".

**SECTION 40‑2‑130.** Denial of authorization to practice.

 The board may deny an authorization to practice to an applicant who has committed an act that would be grounds for disciplinary action under this chapter. The board must deny authorization to practice to an applicant who has failed to demonstrate the qualifications or standards for licensure required by this chapter. The applicant shall demonstrate to the satisfaction of the board that the applicant meets all the requirements for the issuance of a license.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑140.** Effect of prior criminal conviction on authorization to practice.

 A person may not be refused an authorization to practice, pursue, or engage in accounting solely because of a prior criminal conviction unless the criminal conviction directly relates to accounting for which the authorization to practice is sought. However, the board may refuse an authorization to practice if, based upon all information available, including the applicant's record of prior convictions, the board finds that the applicant is unfit or unsuited to engage in accounting.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑150.** Surrender of license to practice while under investigation for violation; reinstatement.

 A licensee who is under investigation for a violation provided for in this chapter or Section 40‑1‑110 may voluntarily surrender his or her authorization to practice to the board. The voluntary surrender invalidates the authorization to practice at the time of its relinquishment, and no person whose authorization to practice is surrendered voluntarily may practice accountancy unless the board, by a majority vote, reinstates the license. A person practicing accountancy during the period of voluntary surrender is considered an illegal practitioner and is subject to the penalties provided by this chapter. The surrender of an authorization to practice must not be considered an admission of guilt in a proceeding under this chapter and does not preclude the board from taking disciplinary action against the licensee as provided for in this chapter including, but not limited to, imposing prerequisite conditions for board reinstatement of the license.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑160.** Appeal.

 A person aggrieved by a final action of the board may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the board's decision pending completion of the appellate process.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑170.** Costs of investigation and prosecution.

 (A) In an order issued in resolution of a disciplinary proceeding before the board, a licensee found in violation of the applicable licensing act may be directed to pay a sum not to exceed the reasonable costs of the investigation and prosecution of the case in addition to other sanctions.

 (B) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the director, or the director's designee, is prima facie evidence of reasonable costs.

 (C) Failure to make timely payment in accordance with the order results in the collection of costs in accordance with Section 40‑1‑180.

 (D) The board may conditionally renew or reinstate for a maximum of one year the license of an individual who demonstrates financial hardship and who enters into a formal agreement to reimburse the board within that time period for the unpaid costs.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑180.** Unpaid costs become judgment.

 (A) All costs and fines imposed pursuant to this chapter are due and payable immediately upon imposition or at the time indicated by final order of the board. Unless the costs and fines are paid within sixty days of the date they are due, the order becomes a judgment and may be filed and executed upon in the same manner as a judgment in the court of common pleas, and the board may collect costs and attorney's fees incurred in executing the judgment. Interest at the legal rate accrues on the amount due from the date imposed until the date paid. All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40‑1‑180 and subject to the collection and enforcement provisions of the Setoff Debt Collection Act.

 (B) All fines and costs collected under this chapter must be remitted by the department to the State Treasurer and deposited in a special fund established for the department to defray the administrative costs associated with investigations and hearings under this chapter.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑190.** Disclosure of information communicated by client; ownership of statements, records, and working papers created by licensee; copies of client records and other documents.

 (A) Except by permission of the client for whom a licensee performs services or the heirs, successors, or personal representatives of a client, or through the terms of a contract between the client and a licensee, a licensee under this chapter must not voluntarily disclose information communicated by the client relating to and in connection with services rendered. This information is confidential. However, nothing in this chapter may be construed to prohibit the disclosure of information requiring disclosure by the standards of the public accounting profession in reporting on the examination of financial statements or to prohibit disclosures in court proceedings, investigations or proceedings under this chapter, in ethical investigations conducted by private professional organizations, in the course of peer reviews, in performing services for that client on a need to know basis by other active persons of the organization, or in the business of persons in the entity needing this information for the sole purpose of assuring quality control.

 (B) Subject to the provisions of this section, CPA‑prepared records and CPA work papers created by a licensee or on behalf of a registrant, incident to, or in the course of, rendering services to a client, except the reports submitted by the licensee to the client and except for CPA work product, are and remain the property of the licensee in the absence of an expressed agreement between the licensee and the client to the contrary. No statement, record, schedule, working paper, or memorandum may be sold, transferred, or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners, stockholders, members or new partners, new stockholders, or new members of the registrant, or any combined or merged firm or successor in interest to the licensee or named successor in the event of the death of the licensee. Nothing in this section may be construed to prohibit temporary transfer of work papers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to this section.

 (C) A licensee shall furnish to a client or former client, upon request and reasonable notice, the following documents with respect to the client or former client:

 (1) any client records; and

 (2) a copy of the licensee's CPA‑prepared records or CPA work product, except that such information may be withheld if fees are due to the licensee for the CPA work product, if the work is incomplete, if providing the CPA work product violates professional standards, or if threatened litigation or outstanding litigation exists concerning the engagement or the work performed.

 (D) The licensee may make and retain copies of any client records.

 (E) With regard to CPA‑prepared records:

 (1) the licensee may charge the client a fee for the time and expense incurred to retrieve and copy CPA‑prepared records and require that the client pay the fee before the licensee provides the records to the client; and

 (2) the licensee is not required to convert records that are not in an electronic format to an electronic format. If the client requests records that are already electronic records, then the client's request should be honored. In addition, the licensee is not required to provide the client with formulas, unless the formulas support the client's underlying accounting or other records or unless the licensee was engaged to provide such formulas as a part of its CPA work product.

 (F) A licensee's CPA work papers shall be the licensee's property, and the licensee is not required to provide such information to a client. However, state and federal statutes and regulations and contractual agreements may impose additional requirements on the licensee.

 (G) Nothing in this section requires a licensee to keep copies of client records, CPA‑prepared records, CPA work product, or CPA work papers beyond the period prescribed in any other applicable law.

HISTORY: 1996 Act No. 453, Section 1; 1998 Act No. 325, Section 3; 2000 Act No. 274, Section 3; 2001 Act No. 92, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, rewrote the section.

**SECTION 40‑2‑200.** Violations; penalty.

 A person or firm who knowingly violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than one year, or both.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑210.** Cease and desist order for violation of licensing requirement; injunctions and restraining orders; penalty.

 If the board believes that a person or firm has engaged, or is about to engage, in an act or practice which constitutes or will constitute a violation of Section 40‑2‑30, the board may issue a cease and desist order. The board may also apply to the Administrative Law Court pursuant to Section 40‑1‑210 for an order enjoining these acts or practices, and upon a showing by the board that the person or firm has engaged or is about to engage in these acts or practices, the division shall grant an injunction, restraining order, or other order as may be appropriate. For each violation, the Administrative Law Court may impose a fine of no more than ten thousand dollars.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑240.** Licensing of persons licensed in another state.

 (A) The board shall issue a license to an applicant who holds a certificate, license, or permit issued under the laws of any state or territory of the United States or the District of Columbia or any authority outside the United States upon a showing that the applicant:

 (1) holds a valid certified public accountant license from a substantially equivalent jurisdiction and may lawfully practice in the jurisdiction in which he is licensed;

 (2) submits to the board a substantial equivalency evaluation report from the NASBA National Qualification Appraisal Service verification that his CPA qualifications are substantially equivalent to the CPA licensure requirements of the AICPA and NASBA Uniform Accountancy Act; or

 (3) submits to the board evidence that he has passed the CPA Examination and, within the ten years prior to applying, has acquired four years of experience of the type described in Section 40‑2‑35(G) after passing the examination upon which the applicant's certificate, license, or permit was issued.

 (B) To apply for a license pursuant to this section an applicant must:

 (1) identify all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy or in which any applications have been denied;

 (2) demonstrate the completion of eighty hours of qualified continuing professional education within the last two years; and

 (3) file an application with the board together with the application fee prescribed by the board.

 (C) Each person issued a license pursuant to this section shall notify the board in writing within thirty days after any issuance, denial, revocation, or suspension of a designation or commencement of a disciplinary or enforcement action against the licensee by any jurisdiction.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2019 Act No. 68 (H.3785), Section 7, eff May 16, 2019; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2019 Act No. 68, Section 7, in (A), in (1), inserted the (a) identifier, redesignated (2) to (6) as (b) to (f), and added (2).

2022 Act No. 174, Section 1, rewrote the section.

**SECTION 40‑2‑245.** Requirements to practice if licensed out of state.

 (A) An individual whose principal place of business is outside this State is presumed to have qualifications substantially equivalent to this state's requirements and may exercise all the privileges of licensees of this State without the need to obtain a license under Section 40‑2‑35 if the individual holds a valid license as a certified public accountant from a substantially equivalent jurisdiction as set out in Section 40‑2‑20(33) and can lawfully practice in the jurisdiction where privileges have been granted.

 (B) Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person or by mail, telephone, or electronic means pursuant to this section is granted practice privileges in this State subject to the requirements of subsection (C). No notice, fee, or other submission may be required of the individual.

 (C) An individual licensee or holder of a permit to practice in another state exercising the privilege afforded under this section and the firm that employs that licensee simultaneously consents, as a condition of exercising this privilege:

 (1) to the personal and subject matter jurisdiction and disciplinary authority of the board;

 (2) to comply with the provisions of this section and the regulations promulgated pursuant to this section;

 (3) that in the event the license or permit to practice from the state of the individual's principal place of business is no longer valid, to cease offering or rendering professional services in this State individually and on behalf of a firm; and

 (4) to have an administrative notice of hearing served on the board in the individual's principal state of business in any action or proceeding by this board against the licensee.

 (D) A licensee of this State offering or rendering services or using his or her CPA title in another state is subject to disciplinary action in this State for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. The board shall investigate any complaint made by the board of accountancy of another state.

HISTORY: 2004 Act No. 289, Section 1; 2008 Act No. 351, Section 6; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, rewrote the section.

**SECTION 40‑2‑250.** Renewal of licenses; reinstatement of lapsed licenses.

 (A) A licensee desiring to renew his license shall file an application for renewal on or before the renewal due date of the following year.

 (B) The application for renewal of a license must include:

 (1) current information concerning practice status;

 (2) an accounting professional education report in a form acceptable to the board and subject to audit at the discretion of the board;

 (3) an acknowledgment of the licensee's responsibility to substantiate and maintain records to support his continuing professional education report; and

 (4) a renewal fee, if any.

 (C) A licensee shall document forty hours of continuing professional education that is acceptable to the board, completed during the immediately preceding calendar year.

 (1) Hour limitations in specific topics or subjects may be determined by the board.

 (2) The board may by regulation provide for the carryover of excess hours of continuing professional education, and such carryover may be applied as if completed during the immediately preceding calendar year.

 (3) A licensee is not required to report continuing professional education for the year in which the initial license was obtained.

 (4) No carryover is allowed from a year in which continuing professional education was not required.

 (5) The board may review, approve, and test any content or delivery type of continuing professional education.

 (6) An annual ethics requirement must be met and included in the documented hours of continuing professional education. No less than two hours of the annual forty hours of continuing professional education must relate to ethics.

 (D) All licensees who have not filed an application for renewal by the renewal date must be given notice, prior to the renewal lapse date, that an application for renewal has not been received.

 (E) If a licensee does not file an application for renewal on or before the renewal due date, then the license is considered late. If a licensee does not file an application for renewal on or before the renewal lapse date, then the license is considered lapsed. Continued practice with a lapsed license may be sanctioned as the unlicensed practice of accounting.

 (F) Renewal applications filed or completed after the renewal lapse date are subject to a reinstatement fee in the amount of five hundred dollars.

 (G) A certified public accountant, accounting practitioner, or public accountant whose license has lapsed or has been inactive for:

 (1) fewer than three years, the license may be reinstated by applying to the board, submitting proof of completing forty continuing professional education units for each year the license has lapsed or has been inactive, and paying the reinstatement fee;

 (2) three or more years, the license may be reinstated upon completion of six months of additional experience, and one hundred twenty hours of continuing professional education;

 (3) an indefinite period and has active status outside of this State may reinstate the license by submitting an application under Section 40‑2‑240.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2014 Act No. 268 (H.3459), Section 5, eff June 9, 2014; 2015 Act No. 51 (S.301), Section 7, eff June 3, 2015; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2014 Act No. 268, Section 5, in subsection (F), inserted ", accounting practitioner,".

2015 Act No. 51, Section 7, rewrote the section.

2022 Act No. 174, Section 1, rewrote the section.

**SECTION 40‑2‑255.** Renewal of registration; peer reviews.

 (A) A registrant shall file an application for renewal of the calendar‑year registration on or before the renewal date of the following year.

 (B) The application for renewal of a registration shall include:

 (1) current information concerning ownership;

 (2) current information concerning the identity of the licensee in charge of the office;

 (3) renewal fee, if any.

 (C) As a condition of renewal of registration, an applicant who engages in attest or compilation services, or both, must provide evidence of satisfactory completion of peer review no more frequently than once every three years. Peer review must be conducted in a manner as the board specifies by regulation. This review must include a verification that individuals in the firm, who are responsible for supervising attest or compilation services, or both, and who sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm, meet the competency requirements set out in the professional standards for these services and these regulations must:

 (1) require an applicant to show that the applicant has, within the preceding three years, undergone a peer review that is a satisfactory equivalent to peer review as generally required pursuant to this subsection;

 (2) require peer reviews to be subject to oversight by a body established or sanctioned by the board, which shall periodically report to the board on program review effectiveness under its charge and provide to the board a listing of firms that have participated in a peer review program;

 (3) require peer reviews to be conducted and that work and documents be maintained in a manner designed to preserve confidentiality of documents furnished or generated in the course of the review.

 (D) All licensees who have not filed an application for renewal by the renewal due date shall be given notification, prior to the renewal lapse date, that an application for renewal has not been received.

 (E) If a registrant does not file an application for renewal on or before the renewal due date, then the registration is considered late. If a registrant does not file an application for renewal on or before the renewal lapse date, then the registration is considered lapsed. Continued practice with a lapsed registration may be sanctioned as the unlicensed practice of accounting.

 (F) Renewal applications filed or completed after the renewal lapse date are subject to a reinstatement fee in the amount of five hundred dollars.

HISTORY: 2004 Act No. 289, Section 1; 2015 Act No. 51 (S.301), Section 8, eff June 3, 2015; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2015 Act No. 51, Section 8, rewrote the section.

2022 Act No. 174, Section 1, in (A), substituted "the renewal date" for "February first"; inserted (D) and redesignated former (D) as (E); rewrote (E); and added (F).

**SECTION 40‑2‑270.** "Emeritus" status.

 (A) A licensee who is retired and does not perform or offer to perform for compensation one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory, or consulting services or the preparation of tax returns or the furnishing of advice on tax matters, may apply to the board for permission to place the word "Emeritus" adjacent to the licensee's "Certified Public Accountant" title or "Public Accountant" title on any document or device on which the "Certified Public Accountant" or "Public Accountant" title appears.

 (B) A license in "Emeritus" status must be renewed annually with no fee required. A license in "Emeritus" status may be reinstated as an active license, subject to fulfilling the requirements for the reinstatement of a lapsed license under Section 40‑2‑250.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, in (B), in the second sentence, substituted "may be reinstated as an active license, subject to fulfilling the requirements for the reinstatement of a lapsed license under Section 40‑2‑250" for "may not be reinstated as an active license"; and deleted (C), which provided that a licensee holding a license in "emeritus" status could apply for licensure under Section 40‑2‑35 as if the licensee was a new applicant and never sat for the exam.

**SECTION 40‑2‑275.** "Retired" status.

 (A) A licensee may apply to the board for permission to place the word "Retired" adjacent to his "Certified Public Accountant" title on any document or device on which the "Certified Public Accountant" title appears if he has:

 (1) attained at least thirty years of combined experience as a licensee in this State or in a substantially equivalent state;

 (2) reached at least fifty‑five years of age during a prior license year;

 (3) works no more than an average of twenty hours per week; and

 (4) does not offer attest services pursuant to Section 40‑2‑20(2) or compilation services pursuant to Section 40‑2‑20(6).

 (B) A licensee with "Retired" status pursuant to subsection (A) may meet the continuing professional education requirement for renewal in Section 40‑2‑250(C) by documenting the completion of one‑half the required hours during the immediately preceding calendar year, provided that he includes no more than one‑half of the required hours with the carryover of excess hours provided through board regulation.

 (C) All other requirements for the renewal of a license with "Retired" status remain the same as in Section 40‑2‑250.

 (D) Nothing in this section is intended to prevent a licensee with "Retired" status from providing prepared financial statements or income tax returns.

HISTORY: 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

**SECTION 40‑2‑330.** Severability.

 If a provision of this chapter or the application of a provision of this chapter to a person or entity or in any circumstances is held invalid, the remainder of the chapter and the application of the provision to others or in other circumstances must not be affected thereby.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑335.** Performance according to professional standards; misleading professional or firm names.

 (A) Licensed certified public accountants/public accountants performing or supervising the performance of attest or compilation services must provide those services in accordance with professional standards.

 (B) A person holding a license or firm holding a registration under this chapter must not use a professional or firm name or designation that is misleading.

 (1) A common brand name, including common initials, used by a CPA firm in its name is not misleading if the firm is a network firm as defined in the AICPA Code of Professional Conduct and, when offering or rendering services that require independence under AICPA standards, the firm complies with the AICPA Code of Professional Conduct's applicable standards on independence.

 (2) A misleading CPA firm name is one that:

 (a) contains any representation that would be likely to cause a reasonable person to misunderstand or be confused about the legal form of the firm, or about who the owners or members of the firm are, such as a reference to a type of organization or an abbreviation thereof that does not accurately reflect the form under which the firm is organized including, but not limited to, a name that:

 (i) implies the existence of a corporation when the firm is not incorporated or is not a professional corporation, such as through the use of the words "corporation", "incorporated", "Ltd.", or "professional corporation", or an abbreviation thereof as part of the firm name;

 (ii) implies the existence of a partnership when there is not a partnership, such as by use of the term "partnership" or "limited liability partnership" or the abbreviation "LLP";

 (iii) includes the name of an individual who is not a CPA if the title "CPAs" is included in the firm name;

 (iv) includes information about or indicates an association with persons who are not members of the firm, except as permitted in item (1). Notwithstanding the prohibition in this subitem, the names of one or more former partners, members, managers, or shareholders who are no longer in public practice may be included in the name of the firm or its successor; or

 (v) includes the terms "& Company", "& Associate", or "Group" when the firm does not include, in addition to the named partner, shareholder, owner, or member, at least one other unnamed partner, shareholder, owner, member, or staff employee;

 (b) contains any representation that would be likely to cause a reasonable person to have a false or unjustified expectation of favorable results or capabilities, through the use of a false or unjustified statement of fact as to any material matter;

 (c) claims or implies the ability to influence a regulatory body or official; or

 (d) includes the name of an owner whose license has been revoked for disciplinary reasons by the board, whereby the licensee has been prohibited from practicing public accountancy, using the title CPA, or holding himself out as a certified public accountant.

HISTORY: 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, rewrote (B).

**SECTION 40‑2‑340.** Omitted.

HISTORY: Former Section, titled Disclaimer, had the following history: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2019 Act No. 68 (H.3785), Section 8, eff May 16, 2019. Omitted by 2022 Act No. 174, (S.812), Section 1, eff May 16, 2022. See now, Code 1976 Section 40‑2‑610.

ARTICLE 3

Regulation of Accounting Practitioners

**SECTION 40‑2‑510.** Persons considered to be engaged in practice.

 A person, firm, or professional association not exempt under Section 40‑2‑530 is considered to be engaged in the practice of offering to render and rendering to the public the services which are regulated by this article if the person, firm, or professional association:

 (1) offers to prospective clients in South Carolina to perform for compensation one or more of these services:

 (a) the development, recording, analysis, or presentation of financial information including, but not limited to, the preparation of financial statements; or

 (b) advice or assistance in regard to accounting controls, systems, and procedures; and

 (2) in any manner holds himself or itself out to the public in South Carolina as skilled in one or more of the types of services described in item (1).

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑520.** Unlicensed practice.

 (A) No professional association, person, partnership, or other legal entity, other than a person, partnership, or other legal entity holding a permit to practice issued pursuant to this article, may engage in the practice defined in Section 40‑2‑510 unless he or it plainly indicates on all signs, cards, letterheads, advertisements, and directories used to disclose his or its practice or business that he or it does not hold a license to practice under this article.

 (B) No professional association, person, partnership, or other legal entity, other than a person, partnership, or other legal entity holding a permit to practice issued pursuant to this article, may assume or use the title or designation "Accounting Practitioner" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is an accounting practitioner or that the partnership is composed of accounting practitioners or that the person, partnership, professional association, or other legal entity is authorized under this article to engage in the practice defined under Section 40‑2‑510.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, in (A) and (B), substituted "partnership, or other legal entity other than a person, partnership, or other legal entity" for "or partnership, other than a person or partnership"; and in (B), substituted "professional association, or other legal entity" for "or professional association".

**SECTION 40‑2‑530.** Exemptions.

 Nothing contained in this article:

 (1) applies to a certified public accountant or public accountant who holds a license to practice issued under the law of South Carolina and no provision of this article applies to a partnership of certified public accountants or public accountants which holds a permit to practice issued under South Carolina authority;

 (2) applies to a person, firm, or professional association which plainly indicates on all signs, cards, letterheads, advertisements, and directories used to disclose his or its practice or business that he or it does not hold a license to practice under this article;

 (3) prohibits a person from serving as an employee of a person, partnership, or professional association if the employee does not engage in the practice defined in Section 40‑2‑510 on his own account;

 (4) prohibits a person, partnership, or professional association from offering to prepare or from preparing a tax return with respect to taxes imposed by a governmental authority, whether federal, state, or local, and this article does not prevent a person from advising clients in connection with tax matters;

 (5) prohibits a person, partnership, or professional association holding a license or permit issued by another state, territory, or the District of Columbia, which authorizes the person, partnership, or professional association to engage in the other jurisdiction in the type of practice described in Section 40‑2‑510, from temporarily practicing in this State as an incident to his or its regular practice outside of this State if the temporary practice is conducted in conformity with the rules of ethical conduct promulgated by the board;

 (6) applies to the affixing of the signature or name of an officer, employee, partner, or principal of an organization to a statement or report in reference to the financial affairs of the organization with wording designating the position, title, or office which he holds in the organization, and the provisions of this article do not apply to an act of a public official or public employee in the performance of his duties;

 (7) applies to the offering or rendering of data processing services by mechanical or electronic means or to the offering or rendering of services in connection with the operation, sale, lease, rental, or installation of mechanical or electronic bookkeeping or data processing equipment or to the sale, lease, rental, or installation of this equipment.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑540.** Authority of board.

 The South Carolina Board of Accountancy shall examine, license, and discipline accounting practitioners. The board may charge a reasonable fee for examinations, not exceeding the fee charged for certified public accountants' examinations.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑550.** Applicant qualifications.

 In order to be eligible for licensing under this article as an accounting practitioner, an applicant may not hold another license granted under this chapter and must:

 (1) not have any history of dishonest or felonious acts;

 (2) be a resident of this State or have a place of business in this State, or as an employee, be regularly employed in this State;

 (3) be at least eighteen years of age; and

 (4) meet these requirements:

 (a) pass an examination approved by the board, which is designed to test the applicant's basic knowledge of the subjects described in Section 40‑2‑510(1) and which may consist of parts of the examination administered to certified public accountant applicants or another examination as the board may prescribe; and

 (b)(i) have a bachelor's degree with a major in accounting from a college or university holding an accreditation from an accreditation body approved by the United States Department of Education; or

 (ii) have transcripts or a degree determined by the board to be substantially equivalent to the foregoing standards.

 (5) surrenders, if licensed and holds a current annual permit to practice in this State as a certified public accountant or public accountant, his license and permit to practice as a certified public accountant or public accountant upon being licensed as an accounting practitioner.

HISTORY: 1996 Act No. 453, Section 1; 2001 Act No. 92, Section 2; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, in (4), rewrote (b).

**SECTION 40‑2‑560.** Issuance of licenses.

 (A) Licenses must be issued by the board to persons satisfying the requirements of Section 40‑2‑550 upon the payment of a license fee in an amount to be determined by the board.

 (B) A licensee must file an application for renewal in accordance with Section 40‑2‑250.

 (C) A partnership, firm, or registrant must file an application in accordance with Section 40‑2‑40 and Section 40‑2‑255.

 (D) Legal entities, without payment of a permit fee, must meet the following standards:

 (1) at least one owner must be an accounting practitioner of this State in good standing;

 (2) each partner must be lawfully engaged in the practice, as defined in Section 40‑2‑520, in a state of the United States; and

 (3) each resident manager in charge of an office must be an accounting practitioner of this State in good standing.

HISTORY: 1996 Act No. 453, Section 1; 2000 Act No. 274, Section 4; 2004 Act No. 289, Section 1; 2015 Act No. 51 (S.301), Section 9, eff June 3, 2015; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2015 Act No. 51, Section 9, in (C), added the reference to Section 40‑2‑40.

2022 Act No. 174, Section 1, in (D), substituted "Legal entities, without payment of a permit fee, must" for "Partnerships, without payment of a permit fee, which", in (1), substituted "owner" for "general partner", and made a nonsubstantive change in (2).

**SECTION 40‑2‑570.** Disciplinary action.

 (A) After notice and hearing pursuant to Section 40‑2‑210, the board may revoke a license or permit as accounting practitioner issued under this article; suspend a license or permit for a period of not more than five years; reprimand, censure, or limit the scope of practice of a license or permit holder; impose an administrative fine not exceeding ten thousand dollars; or place a license or permit holder on probation, all with or without terms, conditions, and limitation for any one or more of these reasons:

 (1) fraud or deceit in obtaining a license or permit;

 (2) cancellation, revocation, or suspension of, or refusal to renew authority to engage in the practice of public accountancy in another state, territory of the United States, or the District of Columbia for any cause;

 (3) revocation or suspension of the right to practice before a state or federal agency;

 (4) dishonesty, fraud, or gross negligence in the practice of public accounting or in filing or failure to file the license or permit holder's own income tax return;

 (5) violation of a provision of this article or Article 1 or a regulation promulgated by the board under the authority granted by this chapter;

 (6) violation of a rule of professional conduct promulgated by the board under the authority granted by this chapter;

 (7) conviction of a felony or any crime, an element of which is dishonesty or fraud, under the laws of the United States, of this State, or another state if the acts involved would have constituted a crime under the laws of this State. The record of conviction or a copy of the record, certified by the clerk of court or the judge in whose court the conviction is had, is conclusive evidence of the conviction and "conviction" shall include a plea of guilty or a plea of nolo contendere;

 (8) performance of a fraudulent act while holding a license or permit under this article; or

 (9) conduct reflecting adversely upon the license or permit holder's fitness to engage in the practice of public accountancy.

 (B)(1) In lieu of or in addition to a remedy specifically provided in subsection (A), the board may require one or more of these requirements of a license or permit holder:

 (a) a quality review conducted in a fashion as the board may require; or

 (b) satisfactory completion of continuing professional education programs as the board may specify.

 (2) A "quality review" means a study, appraisal, or review of one or more aspects of the professional work of a person or firm in the practice of public accountancy by a person or persons who hold certificates or licenses and who are not affiliated with the person or firm being reviewed.

 (C) In a proceeding in which a remedy imposed by subsections (A) and (B) is imposed, the board also may require the respondent license or permit holder to pay the costs of the proceeding.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, in (A), substituted "Section 40‑2‑210" for "Section 40‑2‑310"; and redesignated (B) as (B)(1), (1) and (2) as (a) and (b), and inserted the (2) designator.

**SECTION 40‑2‑580.** Initiation of proceedings; procedures.

 The board may initiate proceedings under this article on its own motion or on the complaint of a person, and the procedures provided in Article 1 for these proceedings are applicable and binding in procedures under this article.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑590.** Violations; penalty.

 A person who violates a provision of this article is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars or more than two hundred dollars or imprisoned not less than twenty days or more than sixty days. Each violation constitutes a separate offense and each day's violation constitutes a separate offense.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, reenacted the section with no apparent change.

**SECTION 40‑2‑600.** Formation of legal entities between certified public accountants, public accountants, and accounting practitioners.

 Nothing contained in this article may be construed to prohibit the formation of legal entities by and between certified public accountants, public accountants, and accounting practitioners if all members or shareholders of the legal entities and all resident managers of offices of the legal entities are licensed under this chapter as certified public accountants or public accountants or are properly licensed under Article 3 of this chapter as accounting practitioners and if the partnerships apply for an annual permit in the manner prescribed in this article for other partnerships. The composition of the ownership of a legal entity will determine whether the entity is subject to the additional restrictions imposed by Article 1 of this chapter.

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2022 Act No. 174, Section 1, rewrote the section.

**SECTION 40‑2‑610.** Disclaimer.

 An accounting practitioner or firm of accounting practitioners is permitted to associate his or the firm's name with compiled financial statements as defined by SSARS, provided that a disclaimer is used that complies with the most recent version of SSARS and that a statement in the report provides:

 "I / we have not audited or reviewed the accompanying financial statements, and I am / we are prohibited by law from expressing an opinion on them".

HISTORY: 1996 Act No. 453, Section 1; 2004 Act No. 289, Section 1; 2019 Act No. 68 (H.3785), Section 8, eff May 16, 2019. Formerly Code 1976 Section 40‑2‑340, renumbered and amended by 2022 Act No. 174 (S.812), Section 1, eff May 16, 2022.

Effect of Amendment

2019 Act No. 68, Section 8, rewrote the section, removing the existing boilerplate language required and instead providing that such disclaimers must comply with certain national standards.

2022 Act No. 174, Section 1, substituted "SSARS, provided that a disclaimer is used that complies with the most recent version of SSARS and that" for "Professional Standards for Accounting and Review Services, provided a disclaimer is used that complies with the most recent version of the statement on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants and" and made nonsubstantive changes to the statement.