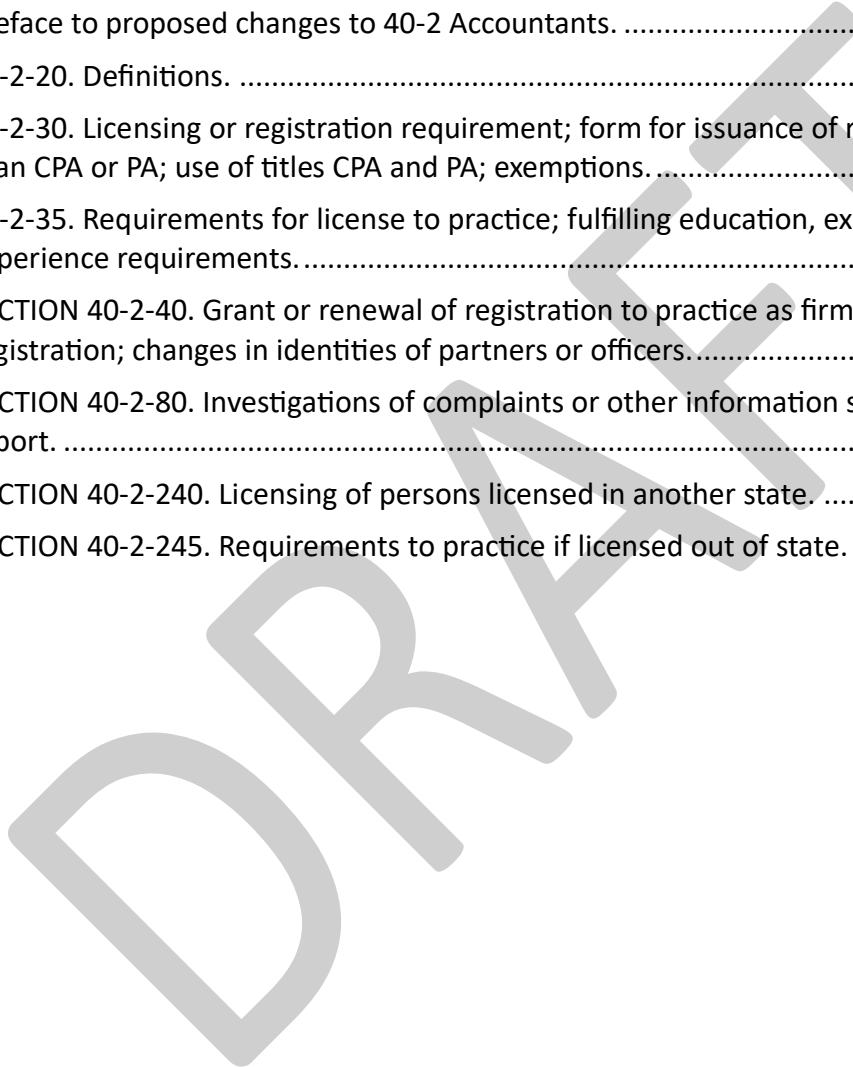


Proposed Amendments to Title 40 Chapter 2 Accountants

Revision 3.1
Dated: 12/19/2023

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Preface to proposed changes to 40-2 Accountants.

The CPA profession uniquely navigates the intersection of state-level governance and national practice rights, presenting a notable blend of local and national rules. In this context, we advocate for revisions to South Carolina's Title 40, Chapter 2, concerning the regulation of this profession.

Our legislative amendment goals are threefold:

1. To rectify minor inaccuracies and streamline references, ensuring precision and uniformity in the statutory language. This clarity is essential for the law's proper interpretation and application.
2. To guarantee that the South Carolina Board of Accountancy (SC BOA) retains authoritative oversight over CPAs serving South Carolina clients. This measure is crucial for upholding exemplary professional standards and safeguarding the interests of our citizens.
3. To infuse adaptability into our licensing framework, responsive to the evolving landscape of licensure. Ever-changing economic and professional environments demand a licensing system that is both dynamic and flexible.

These proposals are grounded in extensive research, comprehensive consultations, and strategic analysis. We understand the far-reaching implications of these licensing system changes, impacting CPAs and those who depend on their services. Our deliberations have carefully weighed the imperatives of public protection and the vital role of financial professionals in workforce development.

The intended revisions are designed to balance rigorous professional standards with enhanced accessibility and efficiency in the licensing process. They seek to modernize our regulatory framework, aligning it with the contemporary demands of our economic and professional environment while preserving the fundamental safeguards of our legal system.

The specifics of the proposed amendments are detailed in the subsequent pages. We value your attention to these proposals and are open to any queries or feedback you might have.

1. Code sections are in *italics*.
2. Sections removed have a ~~strike through~~.
3. The new language is underlined.

40-2-20. Definitions.

COMMENTS: Corrections are needed for a reference error in 40-2-20(2)(a)(v).

(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 (iii)(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.

COMMENTS: Changes in 40-2-20(18) strike duplicate definition 18 "Manager" duplicates 31 "Resident Manager."

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

COMMENTS: Changes were made to Item 40-2-20(23)(b) to include common digital communication techniques. The updated wording considers the possibility of non-licensees exploiting digital tools and strategies to skew search engine results, which could potentially misguide the public.

(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, electronic file, metadata tag, or any other device ~~or device~~ tending to indicate that the person is a certified public accountant.

COMMENTS:

Definition 33 Substantial equivalency or substantially equivalent is cited in multiple statute sections, making it difficult to remove. This language is an attempt to broaden this definition for additional use.

(33) "Substantial equivalency" or "substantially equivalent" is a determination by the board or its designee that the education, examination, ~~and~~ or 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.~~ this State's requirements. 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~~ consider the qualifications without regard to the sequence in which experience, education, or examination requirements were attained.

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.

COMMENTS: The amendment was proposed by former South Carolina Board of Accountancy member Ellen Adkins to align with the revised definition of 'attest' and to incorporate 'compilation' as a separate service. Compilation services, as defined, do not fall within the primary definition of 'attest' but have their own distinct definition.

(E) A firm may not provide attest or compilation 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.*

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

COMMENTS: Clean-up to current language to support the addition of 40-2-35(C)(2) added in S.812

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

(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.~~

(D)

1. **Accredited Education:** 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. This includes all educational training, and experience completed by an individual as a member of the military as outlined in Section 40-1-640.
2. **Unaccredited Education:** In addition to accredited education, the board may recognize and accept up to thirty hours of educational credit from non-accredited sources, subject to the following conditions:
 - The educational content from non-accredited sources shall not redundantly cover subject matter already stipulated under accredited criteria.
 - Applicants seeking to use non-accredited educational credits must provide sufficient documentation to demonstrate the educational value and relevance of these experiences. This documentation should clearly outline the learning objectives, duration, and assessment methods used.
 - Non-accredited educational experiences may include, but are not limited to, unaccredited courses, apprenticeships, certificate programs, experiential learning, or alternative educational programs.
 - Approval of non-accredited educational credits is contingent upon the applicant's prior fulfillment of all prerequisites detailed in Section 40-2-35(C)(1) items (a), (b), and (c).
3. **Evaluation and Approval Process:** The board shall establish a standardized process for evaluating and approving non-accredited educational experiences. This process must ensure that such experiences meet the educational standards necessary for CPA licensure in South Carolina.

COMMENTS: Alterations to item (F) stem from our conviction that the 18-month examination period does not provide any public safeguards, yet it does impose an undue burden on candidates. Additionally, we believe that the 120-hour Continuing Professional Education (CPE) requirement is excessively demanding for candidates and offers no further protection to the public.

(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~~ thirty-six (36) 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~~ thirty-six (36) month period, which begins on the date that the first test section is passed. The board by regulation or ruling, may provide additional time to applicants. ~~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.

COMMENTS: Item (G) has been revised to coincide with the suggested regulations.

Furthermore, a service that was deemed irrelevant, as reported by the Board Administrator, has been removed.

(G)

(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 government, 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~~ personal knowledge of the experience who is licensed to practice accounting in some state or territory of the United States or the District of Columbia for the duration of the qualifying experience;

- (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 personal knowledge of the experience who is licensed to practice accounting in any state or territory of the United States or the District of Columbia for the duration of the qualifying experience; or*
- (3) any combination of experience determined by the board to be substantially equivalent to the foregoing.
- ~~(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;~~

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

COMMENTS: Modifications to item (B) are necessary to incorporate compilation services, as they are not encompassed within the foundational definition of attest.

(B)

- (1) *a firm with an office in this State performing attest services as defined in Section 40-2-20(2), or performing compilation services as defined in 40-2-20(6), or engaging in the practice of accounting as defined in section 4-2-20(23);*
- (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), or performs compilation services as defined in 40-2-20(6), in this State, unless it is exempt from registration pursuant to Section 40-2-30(l).*

COMMENTS: The modifications in item (C) are designed to rectify a reference mistake found in the previous updates to the statute.

(C)

- (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 owner ceases to be an active individual participant in the firm.

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

COMMENTS: The modifications to (B)(1) have been made at the behest of the Director of the LLR to assist in staffing matters. The suggested alterations would maintain the prerequisite for a CPA investigator with five years of experience but would eliminate the requirement for this experience to have been gained within this State.

(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.

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

COMMENTS: This statute section addresses reciprocity in CPA licensing. As states alter their licensure criteria, South Carolina risks not recognizing these licensees as qualified CPAs. Such restrictions can adversely affect CPA firms and local businesses, particularly in hiring out-of-state professionals. Refining our language to reflect the evolving discussion around state licensing requirements is vital. By proactively updating our approach, we can ensure that anyone with an active CPA license, legally practicing in their home state, is eligible for a South Carolina CPA license. This amendment aligns reciprocity with the principle of mobility (discussed in the next section, 40-2-245) and facilitates smoother inter-state professional transitions.

[STRIKE CURRENT LANGUAGE AND REPLACE]

SECTION 40-2-240. Reciprocity the licensing of persons licensed in another state.

(A) *The board shall issue a license to an applicant who:*

(1) possesses an active certificate, license, or permit issued under the laws of any state, territory within the United States, the District of Columbia, or any foreign authority, the

- latter being recognized by the International Qualifications Appraisal Board (IQAB) and subject to Mutual Recognition Agreements (MRAs); and*
- (2) is legally authorized to practice in the jurisdiction where the existing license is held; and*
- (3) certifies that they are in compliance with the Continuing Professional Education (CPE) requirements as determined by the jurisdiction where the existing license is held.*
- (B) To apply for a license pursuant to this section, an applicant must:*
- (1) disclose all domestic and foreign jurisdictions where the applicant has either applied for or holds a designation to practice public accountancy or where any such applications have been denied; and*
- (2) submit an application to the board and remit the requisite application fee as prescribed by the board.*
- (C) Each licensee awarded a license under this section must notify the board in writing within thirty days following any issuance, denial, revocation, or suspension of a designation or initiation of any disciplinary or enforcement action against the licensee by any jurisdiction.*

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

COMMENTS: This statute section enables CPAs whose primary office is outside of South Carolina to practice within the state, a provision known as 'mobility,' granting them practice privileges and subjecting them to the Board's jurisdiction and disciplinary authority. However, as jurisdictions increasingly broaden CPA licensure for non-traditional candidates, our current legislation falls short in accommodating these changes. This oversight risks the South Carolina Board of Accountancy losing its jurisdictional authority over out-of-state CPAs serving our residents, posing a public protection liability that demands immediate resolution.

[STRIKE CURRENT LANGUAGE AND REPLACE]

SECTION 40-2-245. Mobility requirements to practice if licensed out of state.

- (A) Individuals whose principal place of business is outside this State, possessing an active certificate, license, or permit issued under the laws of any state, territory within the United States, the District of Columbia, or any foreign authority recognized by the International Qualifications Appraisal Board (IQAB) and subject to Mutual Recognition Agreements (MRAs), are presumed to have qualifications equivalent to this state's requirements. Such individuals may exercise all the privileges of this State's licensees without obtaining a license under Section 40-2-35, provided they are lawfully authorized to practice in their licensing jurisdiction.*
- (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) By exercising the privileges under this section, an individual licensee or holder of a permit to practice from another jurisdiction and the firm employing that licensee inherently consent to:

- (1) The personal and subject matter jurisdiction, as well as the disciplinary authority of the board;*
- (2) Compliance with the regulations and provisions of this section;*
- (3) Cease offering or rendering professional services in this State individually or on behalf of a firm, if their license from their principal place of business is no longer valid; and*
- (4) 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.

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