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Final Regulation Agency Background Document

Agency name	Virginia Board of Accountancy
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC5-22
VAC Chapter title(s)	Board of Accountancy Regulations
Action title	Amend Regulations Following Periodic Review
Date this document prepared	August 25, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Following a periodic agency review of the regulations, several areas were identified as sections that could be clarified for the public and for CPAs alike. In general, language is undergoing minor tweaking to more accurately reflect proper definitions and make the word choice and phrasing more consistent throughout the Code of Virginia. The following sections are being amended in a more substantial manner: 18VAC5- 22-90 (Continuing professional education), 18VAC5-22-170 (Communication with the board), 18VAC5- 22-180 (Issuance, renewal, and reinstatement of licenses).

In 18VAC5-22-90 specifically, three subsections are removed in order to be put in a completely new section that is more logical. This new section is 18VAC5-22-91 (Documentation of continuing professional education). The language remaining in 18-VAC5-22-90 is also tweaked for clarification.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

VBOA = Virginia Board of Accountancy
CPA = Certified Public Accountant
CPE = Continuing Professional Education
AICPA = American Institute of Certified Public Accountants
VSCPA = Virginia Society of Certified Public Accountants

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

Following the end of the 60 day comment period for the proposed regulations, which had no comments on Town Hall (but a letter of support from the Virginia Society of CPAs submitted separately), we are proceeding to the final stage. The proposed text, which included DPB's minor suggested tweaks as discussed in the proposed stage, is identical to the final text. This form was prepared August 25, 2020, the same date which the final action is submitted. As these proposed regulations are following the periodic review, these regulations are known as "Amend Regulations Following Periodic Review."

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

These regulatory changes follow a completed periodic review that identified areas in the Board of Accountancy regulations that could be clarified.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

VBOA regulations are promulgated under the general authority of Title 54.1, Chapter 44 of the Code of Virginia. Subsection 3 of § 54.1-4403 of the Code of Virginia gives the VBOA the power and duty to "[p]romulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by licensees, and to effectively administer the regulatory system." Subsection H of §

54.1-4402 of the Code of Virginia states that the VBOA “shall have the responsibility of enforcing [Chapter 44 of Title 54.1] and may by regulation establish rules and procedures for the implementation of the provisions of this chapter.”

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The VBOA regularly receives informal and formal feedback about the agency's processes and rules. Feedback received includes concerns that the regulations in their present form may seem confusing. By simplifying the language where possible and making minor tweaks where appropriate, the complete regulations should be more comprehensible. This includes making word choice and phrasing more consistent throughout the regulations.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

Simple corrections and/or additions to the language are made for the purpose of clarity and consistency in 18VAC5-22-40, 18VAC5-22-50, and 18VAC-5-22-70.

The following sections are being amended in a more substantial manner: 18VAC5-22-90 (Continuing professional education), 18VAC5-22-170 (Communication with the board), 18VAC5-22-180 (Issuance, renewal, and reinstatement of licenses).

In 18VAC5-22-90 specifically, three subsections are removed in order to be put in a completely new section that is more logical. This new section is 18VAC5-22-91 (Documentation of continuing professional education). The language remaining in 18-VAC5-22-90 is also tweaked for clarification.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The major advantage is that the amended regulations should be more clearly understood by the public, CPAs, and CPA applicants following the proposed changes that make the language more consistent. Another advantage is that by requiring the disclosure of disciplinary sanctions against CPAs and CPA firms within 30 calendar days (18VAC5-22-170), the public will be better

protected and more informed when seeking services from a CPA or CPA firm. In addition, the section regarding the annual renewal of licenses (see 18VAC5-22-180) is greatly reduced and provides further clarification for renewal dates, particularly for new and recent licensees.

There are no known disadvantages to the public or businesses.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no applicable federal requirements to this section.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

There are no known state agencies that will be particularly affected.

Localities Particularly Affected

No localities are anticipated to be particularly affected.

Other Entities Particularly Affected

There are no other known entities that will be particularly affected.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
Virginia Society of CPAs	Proposed regulations add clarity & better align with VBOA practices.	Agreed.

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements

No new changes.

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
18VAC5-22-20		Fees.	Added subsection to state that any original application for a CPA license in Virginia will expire six years from the original application date, and a new application with the corresponding fees and requirements will need to be submitted.
18VAC5-22-40		Points to statute to determine whether a person using the CPA title and with a Virginia license is providing services to the public or an employer.	Adds language to include those using the CPA title and providing services on behalf of an employer.
18VAC5-22-50		Identifies how a principal place of business is determined to be in Virginia.	Adds providing financial statement preparation services as a function to determine where the principal place of business is.
18VAC5-22-70		States that the 24 hours of accounting includes courses in auditing, financial accounting, management accounting, and taxation.	Clarifies that the 24 hours of accounting courses MUST include courses in auditing, financial accounting, management accounting, and taxation.
18VAC5-22-90	18VAC5-22-91	Includes subsections A, B, C, D, E, F, G.	Removes subsections E, F, and G from section 90 and moves them to a new section 91.
18VAC5-90 (A)		Describes the CPE requirements for someone with an active license in another state and their principal place of business is not Virginia.	Clarifies that if someone has an active license in another state and their principal place of business is not Virginia, that are exempt from meeting Virginia CPEs if they meet that other

			state’s CPEs. If the other state has an ethics requirement, then they have satisfied Virginia CPE. If the other state does not have an ethics requirement, they will still need to take the ethics course prescribed by the board in Virginia to satisfy exemption requirements.
18VAC5-22-90 (C)		Describes eligibility for receiving an exemption from CPE for those not providing services to the public or to or on behalf of an employer.	Clarifies that this exemption must be granted in writing by the board. Clarifies that to be eligible for this exemption from CPE, a licensee cannot be providing services to the public or to or on behalf of an employer including on a volunteer basis.
18VAC5-22-90 (D)		Describes CPE requirements for a new licensee based on when the CPA examination was passed.	Clarifies that if someone submits their application to become a CPA within the same calendar year that they passed the CPA examination, they do not need to obtain CPE for that calendar year.
18VAC5-22-90 (E) (F) (G)	18VAC5-22-91	The current E, F, and G sections are moved to the new section 91 as A, B, and C.	Moved to new section for better categorization. The new subsections of D, E, and F in 91 are copied from existing VBOA policy to better streamline CPE documentation standards.
18VAC5-22-120		Supervision of firm personnel.	Clarifies that this section is applicable to those holding an active Virginia license.
18VAC5-22-170		Virginia licensees must notify the board within 30 calendar days of changes in the name, postal, and electronic addresses where the license holder may be reached.	Clarifies that a change in the legal name needs to be reported. Adds that the following changes must be reported: any administrative disciplinary action that the license holder is subject of or party to before any court, state/federal agency, branch of the armed forces of the United States of America, or before the AICPA, VSCPA or their successors; any felony or misdemeanor conviction; any guilty plea or plea of nolo contendere; any judgement rendered against the license holder in civil court; any receipt of a peer review report or PCAOB firm inspection report containing reported criticisms or defects. Adds that upon each renewal, reinstatement or application for a Virginia license, these same actions/sanctions must be reported. In addition, current subsection (C) is being moved to section 180.

18VAC5-22-180		This section currently includes an outdated renewal calendar that served the purpose of providing instruction leading up to the implementation of the single annual renewal date, which began on June 30, 2019.	Removed the outdated calendar, so the language regarding the single annual renewal date on June 30 remains. Adds that persons/entities applying for initial licenses or reinstatements on or after March 1 of each calendar year, they will not have to do that calendar year's annual renewal. Language from section 170 regarding the responsibility to renew is placed in the new 180 (C).
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