

Thursday, August 31, 2017
VBOA Board Meeting Agenda

Board Room 1
2nd Floor Conference Center
9960 Mayland Drive
Henrico, VA 23233
Phone: (804) 367-8505

- 10:00 a.m. Call to Order – **Matthew P. Boshier, Chair**
Security Briefing – **Patti Hambright, Administrative Assistant**
Determination of Quorum
Approval of August 31, 2017, Agenda
Approval of June 14, 2017, Board meeting minutes
Approval of Consent Agenda:
- Consent Orders:
 - 2017-013-007U (Ferguson and Saunders)
 - 2017-066-020U (Ferguson and Saunders)
 - 2017-092-008D (Ferguson and Saunders)
 - Reinstatements:
 - 2017-154-012E (Jewell and Allen)
 - 2017-247-013E (Jewell and Allen)
 - 2017-248-014E (Jewell and Allen)
 - 2017-249-015E (Jewell and Allen)
- Public comment period*
- 10:10 a.m. 1. Board Discussion Topics – **Wade A. Jewell, Executive Director**
- Review of comments on periodic review of 18VAC5-11 and approval of agency action – **Rebekah Allen, Enforcement Director**
 - Proposed Fast Track regulations changes – **Rebekah Allen, Enforcement Director**
 - Proposed changes to Board Policy #5 (Publication of Board Disciplinary Action) – **Rebekah Allen, Enforcement Director**
 - VSCPA – 2025 Vision (**VSCPA**)
 - Virginia-Specific Ethics Course – Presentation (**VSCPA**) and Board discussion
 - VSCPA – Letter regarding reinstatement fees
 - Proposed CPE for Certified Government Financial Manager (CGFM) Exam – **Susan Quaintance Ferguson, CPA, Vice Chair**
 - NASBA Exposure Draft – Use of Titles – **Stephanie S. Saunders, CPA**
 - Proposed 2018 Legislation
 - Marijuana Laws/Guidance
- 12 p.m. Recess for Board lunch
- 12:45 p.m. 1. Board Discussion Topics, continued if necessary – **Wade A. Jewell, Executive Director**

- 1:30 p.m. 2. Committee/NASBA Updates
- NASBA Standard-Setting Advisory Committee – **Matthew P. Boshier, Chair**
 - NASBA Education Committee – **Susan Quaintance Ferguson, CPA, Vice Chair**
 - NASBA UAA Committee – **Stephanie S. Saunders, CPA**
 - NASBA Middle Atlantic Regional Director – **Stephanie S. Saunders, CPA**
 - NASBA Executive Director’s Committee – **Wade A. Jewell, Executive Director**
- 1:40 p.m. 3. Executive Director’s Report – **Wade A. Jewell, Executive Director**
- General updates
- 2:00 p.m. 4. Additional Items for Discussion
- Carry over items/potential future topics
 - CPE guidelines for publications
 - Regulation changes
 - Use of confidential consent agreements
 - CPE – VBOA/VSCPA discussions
 - Single renewal date for all Virginia licensees
 - Trust Fund Reserve Policy
 - Background checks
 - Adjudication Manual
 - Social Media Activity (Enforcement)
 - North Carolina Dental Case
 - Marijuana Laws/Guidance
 - Sign Conflict of Interest forms
 - Sign Travel Expense vouchers
 - Future meeting dates
 - October 3, 2017 (Tentative)
 - November 7, 2017, at Virginia Tech
- 2:10 p.m. 5. Closed Session
Enforcement – **Rebekah Allen, Enforcement Director**
- OAG updates
 - Consent Orders:
 - 2016-0053U (Bradshaw and Moyers)
 - 2017-002-002U (Ferguson and Saunders)
 - 2017-003-003U (Ferguson and Saunders)
 - 2017-105-025U (Ferguson and Saunders)
- 3:00 p.m. 6. Closed Session – **Wade A. Jewell, Executive Director**
- Personnel
- 3:15 p.m. Adjournment

***Five-minute public comment, per person, on those items not included on the agenda.**

Persons desiring to attend the meeting and requiring special accommodations/interpretive services should contact the VBOA office at (804) 367-8505 at least five days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The VBOA fully complies with the Americans with Disabilities Act.

**Board Meeting
June 14, 2017
Draft/Unapproved minutes**

The Virginia Board of Accountancy met on Wednesday, June 14, 2017, in Board Room #2 of the Perimeter Center, 9960 Mayland Drive, Henrico, Virginia 23233.

MEMBERS PRESENT: James M. “Jim” Holland, CPA, Chair
Matthew P. Boshier, Esq., Vice Chair
D. Brian Carson, CPA
Susan Quaintance Ferguson, CPA
Stephanie S. Saunders, CPA

**MEMBER PRESENT
FOR A PORTION OF
THE MEETING:** Laurie A. Warwick, CPA

**MEMBER PRESENT
BY TELECONFERENCE
FOR A PORTION OF THE
MEETING:** Andrea M. Kilmer, CPA

LEGAL COUNSEL: Heather Hays Lockerman, Senior Assistant Attorney General and
Section Chief
Robert Drewry, Assistant Attorney General,
Office of the Attorney General

STAFF PRESENT: Wade A. Jewell, Executive Director
Fred Washington, Deputy Director
Mary Charity, Director of Operations
Rebekah E. Allen, Enforcement Director
Kelli Anderson, Communications Manager
Melinda H. Haddon, Financial & Procurement Coordinator
Patti Hambright, CPE Coordinator and Administrative Assistant

**MEMBERS OF THE
PUBLIC PRESENT:** Tyrone Dickerson, CPA, NASBA At-Large Director and Diversity
Committee Chair, former Board member and Chair
Emily Walker, CAE, Vice President, Advocacy, Virginia Society of
Certified Public Accountants
Amy Mawyer, Vice President, Strategy and Development, Virginia
Society of Certified Public Accountants

**Board Meeting
June 14, 2017
Draft/Unapproved minutes**

Linda Newsom-McCurdy, CAE, Education Director, Virginia Society of
Certified Public Accountants
Patrick A. Cushing, Esq., Williams Mullen, Counsel for Virginia Society
of Certified Public Accountants

CALL TO ORDER

Mr. Holland called the meeting to order at 10:00 a.m.

SECURITY BRIEFING

Ms. Hambright provided the emergency evacuation procedures.

DETERMINATION OF QUORUM

Mr. Holland determined there was a quorum present. Mr. Jewell informed the Board that Ms. Kilmer requested, for medical reasons, per Board Policy #10 (Electronic Participation in Virginia Board of Accountancy Meetings), that she be permitted to participate in the meeting via telephone during closed session. It was determined that she met the qualifications per Board Policy #10. No objections were raised.

APPROVAL OF AGENDA

Upon a motion by Ms. Saunders, and duly seconded, the members voted unanimously to approve the June 14, 2017, agenda as amended. The members voting "AYE" were Mr. Holland, Mr. Boshier, Mr. Carson, Ms. Ferguson, Ms. Saunders and Ms. Warwick.

APPROVAL OF MINUTES

Upon a motion by Ms. Saunders and duly seconded, the members voted unanimously to approve the May 24, 2017 Board meeting minutes as presented. The members voting "AYE" were Mr. Holland, Mr. Boshier, Mr. Carson, Ms. Ferguson, Ms. Saunders and Ms. Warwick.

APPROVAL OF CONSENT ORDER

Upon a motion by Ms. Saunders, and duly seconded, the members voted to approve Consent Order 2017-060-019U as presented. The members voting "AYE" were Mr. Holland, Mr. Carson, Ms. Ferguson, Ms. Saunders and Ms. Warwick. Mr. Boshier abstained from the vote.

**Board Meeting
June 14, 2017
Draft/Unapproved minutes**

APPROVAL OF CONSENT AGENDA

Upon a motion by Mr. Boshier and duly seconded, the members voted unanimously to approve the Consent Agenda as presented. The members voting “**AYE**” were Mr. Holland, Mr. Boshier, Mr. Carson, Ms. Ferguson, Ms. Saunders and Ms. Warwick.

PUBLIC COMMENT PERIOD

Mr. Holland welcomed and invited members of the public to provide comments. No comments were provided at this time.

COMMITTEE/NASBA UPDATES

NASBA CPE Committee

Mr. Holland led the discussion regarding the NASBA CPE Committee. He noted it had been a joy to serve on the committee and looked forward to seeing more videos produced by NASBA on the VBOA website.

NASBA Standard-Setting Advisory Committee

There were no updates to the NASBA Standard-Setting Advisory Committee.

NASBA Diversity Committee

As the NASBA Diversity Committee Chair, Mr. Dickerson, former Board member and Chair, led the discussion regarding NASBA updates. Mr. Dickerson talked about the progress that NASBA has made in the area of diversity, but noted more work needs to be done. He mentioned NASBA’s Vice Chair (Ted Long) and Vice Chair-elect (Janice Gray) as individuals breaking through diversity barriers. He noted NASBA publishes a newsletter, and provides videos and testimonials from committee members to assist with getting the diversity message out. He thanked all NASBA committee members for their service and dedication.

NASBA Education Committee

There were no updates to the NASBA Education Committee.

**Board Meeting
June 14, 2017
Draft/Unapproved minutes**

NASBA Communications Committee

Mr. Carson led the discussion regarding the NASBA Communications Committee. He stated the committee's charge was to promote effective and efficient communication among Boards of Accountancy while utilizing the services offered by NASBA.

NASBA UAA Committee

Ms. Saunders led the discussion regarding the NASBA UAA Committee. She noted the committee had been charged with proposing language in the UAA to deal with the issue of non-CPA CGMA title users. As a result, the UAA recommended language for the AICPA/NASBA Board's to consider. The NASBA Board voted to expose the language to state boards for their input. The deadline for responses to the exposure draft is September 30, 2017. She noted for Virginia, this is a non-issue because this Board does not have statutory authority to regulate non-CPA CGMA title users. Ms. Saunders noted she would have additional information to the Board after the regional meeting.

NASBA Middle Atlantic Regional Director

Ms. Saunders led the discussion regarding her role as NASBA's Middle Atlantic Regional Director. Mr. Holland, Ms. Ferguson, Ms. Saunders, Ms. Warwick and Mr. Jewell plan to attend the NASBA Eastern Regional meeting June 27 – 29, 2017 in Newport, RI.

NASBA Executive Director's Committee

Mr. Jewell led the discussion regarding the NASBA Executive Director's Committee. He noted as Chair of the NASBA Executive Director's Committee he was able to attend the Western Regional Meeting from June 6 – 8, 2017 in Coeur d'Alene, Idaho as a speaker to other Executive Directors. Meeting topics included a Communications breakfast with updates from NASBA, Confidentiality (as it relates to Whistle Blowers), tracking social media, the ALD (Accountancy Licensee Database) and the UAA issue regarding the non-CPA CGMA language, among many others. Mr. Jewell noted the meeting was a great opportunity to meet with state board members and staff from western regional states. Mr. Jewell will also be presenting at the NASBA Eastern Regional meeting in Rhode Island at the end of the month.

EXECUTIVE DIRECTOR'S REPORT

General Updates

Mr. Jewell presented the following general updates regarding the VBOA:

**Board Meeting
June 14, 2017
Draft/Unapproved minutes**

- The new VBOA licensing/database project continues to move forward. VITA continues to ensure the new system maintains the highest security. The VBOA plans to hire a VITA certified project manager for oversight of system design and implementation.
- Mr. Jewell noted beginning July 1, 2017 all licensure experience must be verified by an active, licensed CPA.

May 2017 Board Report

Ms. Charity presented and fielded questions regarding the May 2017 Board Report.

May 2017 Financial Report

Mr. Washington presented and fielded questions regarding the May 2017 Financial Report.

BOARD DISCUSSION TOPICS

AICPA's Proposed Evolution of Peer Review Administration Discussion Paper

Mr. Jewell discussed the AICPA's Proposed Evolution of Peer Review Administration Discussion Paper and response provide by the Peer Review Oversight (PROC) Committee. He noted the PROC Committee had provided noteworthy comments and recommendations detailed in their response. Ms. Walker provided comment. Mr. Jewell will touch base with the Board's PROC Chair to determine if any changes are necessary to the original response. The Board advised Mr. Jewell to forward the PROC's response to NASBA and the AICPA following communications with the PROC and Board, if necessary. The submission deadline is June 30, 2017.

Virginia-Specific Ethics Course

Mr. Jewell led the discussion regarding the Virginia-Specific Ethics Course. He provided a report detailing the annual ethics CPE requirements for all state boards. The Board agreed to table this discussion for a future meeting. Ms. Saunders/Board staff will also obtain clarity from NASBA on several questions raised from the report.

Guidelines for assessing non-CPE penalties

- **Including Social Media**

Ms. Allen led the discussion regarding the guidelines for assessing non-CPE penalties. She noted the document had been posted on the VBOA website and received no public comment. After a thorough

**Board Meeting
June 14, 2017
Draft/Unapproved minutes**

discussion and additional amendments, the Board agreed to further discussion in closed session to consult with legal counsel. Ms. Walker provided comment.

Review/approval of proposed exempt regulation changes

Ms. Allen led the discussion regarding the review/approval of proposed exempt regulation changes. Ms. Allen noted proposed regulation (exempt) changes included making changes that were identical to those made to the statutes that are effective July 1, 2017. Changes included removing the verbiage “using the CPA title” and updating the reference to providing service “to or on behalf of an employer.” She noted these changes were identical to the changes presented at the May 24, 2017 Board meeting. Ms. Walker provided comment.

Upon a motion by Ms. Saunders, and duly seconded, the members voted unanimously to adopt the proposed exempt regulation changes as presented. The members voting “**AYE**” were Mr. Holland, Mr. Boshier, Mr. Carson, Ms. Ferguson, Ms. Saunders and Ms. Warwick.

Repeal of § 54.1-4413.2(B)

The Board moved to go into closed session to consult with legal counsel. Ms. Kilmer joined the meeting by teleconference.

The Board was provided lunch during closed session.

CLOSED SESSION

Begin closed meeting

Upon a motion by Mr. Boshier, and duly seconded, the members approved by unanimous vote the meeting be recessed and the VBOA immediately convene a closed meeting under the Virginia Freedom of Information Act for the provision of legal counsel, a matter lawfully exempted from open meeting requirements under the ‘consulting with legal counsel’ exemption contained in Virginia Code § 2.2-3711(A)(7). The following non-members will be in attendance to reasonably aid in the consideration of this topic: Heather Hays Lockerman, Robert Drewry, Wade Jewell, Fred Washington, Mary Charity and Rebekah E. Allen.

End closed meeting

Upon a motion by Mr. Boshier, and duly seconded, the VBOA approved by unanimous vote that the closed meeting, as authorized by § 2.2-3712.A of the Code of Virginia, be adjourned and that the VBOA immediately reconvene in an open public meeting. WHEREAS, the VBOA has convened a closed

**Board Meeting
June 14, 2017
Draft/Unapproved minutes**

meeting on this date pursuant to an affirmative recorded vote and in accordance with the provision of the Virginia Freedom of Information Act; and WHEREAS, § 2.2-3712.A of the Code of Virginia requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law; NOW THEREFORE, BE IT RESOLVED that the VBOA hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the VBOA.

CALL FOR VOTE:

James M. "Jim" Holland, CPA – Aye
Matthew P. Boshier, Esq. – Aye
D. Brian Carson, CPA – Aye
Susan Quaintance Ferguson, CPA – Aye
Andrea M. Kilmer, CPA – Aye
Stephanie S. Saunders, CPA – Aye
Laurie A. Warwick, CPA – Aye

VOTE:

Ayes: Seven (7)
Nays: None

Upon a motion by Mr. Carson, and duly seconded, the members voted unanimously to adopt the Disciplinary Guidelines Non-CPE Penalties document as amended. The members voting "AYE" were Mr. Holland, Mr. Boshier, Mr. Carson, Ms. Ferguson, Ms. Kilmer, Ms. Saunders and Ms. Warwick.

Upon a motion by Mr. Boshier, and duly seconded, the members voted unanimously that in the event the license of an application for reinstatement expired pursuant to Virginia Code § 54.1-4413.2 less than 12 months prior to the date the reinstatement application is received by the Board, the license, if reinstated, shall be deemed effective as of the date it expired. The members voting "AYE" were Mr. Holland, Mr. Boshier, Mr. Carson, Ms. Ferguson, Ms. Kilmer, Ms. Saunders and Ms. Warwick.

Ms. Kilmer is no longer participating by teleconference.

ADDITIONAL ITEMS FOR DISCUSSION

Carry Over Items/Potential Future Topics

- CPE guidelines for publications
- Virginia-specific ethics course

**Board Meeting
June 14, 2017
Draft/Unapproved minutes**

- Use of confidential consent agreements
- CPE – VBOA/VSCPA discussions
- Single renewal date all Virginia licensees
- Trust Fund Reserve Policy
- Background checks
- Statute/Regulation changes
- North Carolina Dental Case

Sign Conflict of Interest forms

Sign Travel Expense vouchers

Future meeting date

- Thursday, August 31, 2017
- Tuesday, November 7, 2017 (Virginia Tech campus)

Mr. Boshier read a resolution into record recognizing June 14, 2017 as Mr. Holland recognition day. The Board members, Mr. Jewell and Ms. Walker recognized Mr. Holland for his leadership and commitment to the Board and to the profession.

Upon a motion by Mr. Boshier and duly seconded, the members voted unanimously to approve and accept the resolution as read. The members voting “**AYE**” were Mr. Holland, Mr. Boshier, Mr. Carson, Ms. Ferguson, Ms. Saunders and Ms. Warwick.

ENFORCEMENT

Begin closed meeting

Upon a motion by Mr. Boshier, and duly seconded, the members approved by unanimous vote the meeting be recessed and the VBOA immediately convene a closed meeting under the Virginia Freedom of Information Act for the provision of legal counsel and to consult with legal counsel on issues relating to probable litigation, and/or consider the status of all open Enforcement Cases and cases listed on our agenda, a matter lawfully exempted from open meeting requirements under the ‘consulting with legal counsel’ and ‘disciplinary proceedings’ exemptions contained in Virginia Code § 2.2-3711(A)(7),(27). The following non-members will be in attendance to reasonably aid in the consideration of this topic: Heather Hays Lockerman and Robert Drewry. The following non-members will be in attendance for a

**Board Meeting
June 14, 2017
Draft/Unapproved minutes**

portion of the closed meeting to reasonable aid in the consideration of this topic: Wade Jewell and Rebekah E. Allen.

End closed meeting

Upon a motion by Mr. Boshier and duly seconded, the VBOA approved by unanimous vote that the closed meeting, as authorized by § 2.2-3712.A of the Code of Virginia, be adjourned and that the VBOA immediately reconvene in an open public meeting. WHEREAS, the VBOA has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provision of the Virginia Freedom of Information Act; and WHEREAS, § 2.2-3712.A of the Code of Virginia requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law; NOW THEREFORE, BE IT RESOLVED that the VBOA hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the VBOA.

CALL FOR VOTE:

James M. "Jim" Holland, CPA – Aye
Matthew P. Boshier, Esq. – Aye
D. Brian Carson, CPA – Aye
Susan Quaintance Ferguson, CPA – Aye
Stephanie S. Saunders, CPA – Aye
Laurie A. Warwick, CPA – Aye

VOTE:

Ayes: Six (6)
Nays: None

The following action was taken as a result of the closed session:

Case #2016-CPE-0014 (Jewell and Allen)

Mr. Jewell and Ms. Allen were not present and did not participate in the discussion.

Upon a motion by Ms. Warwick, and duly seconded, the members voted unanimously to accept the presiding officer's recommendation as presented.

CALL FOR VOTE:

**Board Meeting
June 14, 2017
Draft/Unapproved minutes**

James M. "Jim" Holland, CPA – Aye
Matthew P. Boshier, Esq. – Aye
D. Brian Carson, CPA – Aye
Susan Quaintance Ferguson, CPA – Aye
Stephanie S. Saunders, CPA – Aye
Laurie A. Warwick, CPA – Aye

VOTE:

Ayes: Six (6)

Nays: None

Begin closed meeting

Upon a motion by Mr. Boshier, and duly seconded, the members approved by unanimous vote the meeting be recessed and the VBOA immediately convene a closed meeting under the Virginia Freedom of Information Act to discuss and consider a personnel matter relating to the Board of Accountancy staff, a matter lawfully exempted from open meeting requirements under the 'personnel matters' exemption contained in Virginia Code § 2.2-3711(A)(1). The following non-member will be in attendance for a portion of the closed session to reasonable aid the consideration of this topic: Wade Jewell.

End closed meeting

Upon a motion by Mr. Boshier, and duly seconded, the VBOA approved by unanimous vote that the closed meeting, as authorized by § 2.2-3712.A of the Code of Virginia, be adjourned and that the VBOA immediately reconvene in an open public meeting. WHEREAS, the VBOA has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provision of the Virginia Freedom of Information Act; and WHEREAS, § 2.2-3712.A of the Code of Virginia requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law; NOW THEREFORE, BE IT RESOLVED that the VBOA hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the VBOA.

CALL FOR VOTE:

James M. "Jim" Holland, CPA – Aye
Matthew P. Boshier, Esq. – Aye
D. Brian Carson, CPA – Aye
Susan Quaintance Ferguson, CPA – Aye

**Board Meeting
June 14, 2017
Draft/Unapproved minutes**

Stephanie S. Saunders, CPA – Aye

VOTE:

Ayes: Five (5)

Nays: None

ADJOURNMENT

There being no further business before the VBOA, upon a motion by Ms. Saunders and duly seconded, the meeting was adjourned by unanimous vote at 3:52 p.m. The members voting “**AYE**” were Mr. Holland, Mr. Boshier, Mr. Carson, Ms. Ferguson and Ms. Saunders.

APPROVED:

James M. “Jim” Holland, CPA, Chair

COPY TESTE:

Wade A. Jewell, Executive Director

Administrative Code
 Title 18. Professional and Occupational Licensing
 Agency 5. Board of Accountancy
 Chapter 11. Public Participation Guidelines

18VAC5-11-10. Purpose.

Part I. Purpose and Definitions

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board of Accountancy. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

Statutory Authority

§§ 2.2-4007.02 and 54.1-4403 of the Code of Virginia.

Historical Notes

Derived from Volume 25, Issue 04, eff. November 26, 2008.

18VAC5-11-20. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board of Accountancy, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ [2.2-4031](#) et seq.) of the Administrative Process Act.

Statutory Authority

§§ [2.2-4007.02](#) and [54.1-4403](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 25, Issue 04](#), eff. November 26, 2008.

18VAC5-11-30. Notification List.

Part II. Notification of Interested Persons

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

Statutory Authority

§§ [2.2-4007.02](#) and [54.1-4403](#) of the Code of Virginia.

Historical Notes

Derived from Volume 25, Issue 04, eff. November 26, 2008.

18VAC5-11-40. Information to Be Sent to Persons on the Notification List.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC5-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Statutory Authority

§§ 2.2-4007.02 and 54.1-4403 of the Code of Virginia.

Historical Notes

Derived from Volume 25, Issue 04, eff. November 26, 2008.

18VAC5-11-50. Public Comment.

Part III. Public Participation Procedures

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.
2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.
3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.
5. For a minimum of 30 calendar days following the publication of a fast-track regulation.
6. For a minimum of 21 calendar days following the publication of a notice of periodic review.
7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

Statutory Authority

§§ 2.2-4007.02 and 54.1-4403 of the Code of Virginia.

Historical Notes

Derived from Volume 25, Issue 04, eff. November 26, 2008.

18VAC5-11-60. Petition for Rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

Statutory Authority

§§ 2.2-4007.02 and 54.1-4403 of the Code of Virginia.

Historical Notes

Derived from Volume 25, Issue 04, eff. November 26, 2008.

18VAC5-11-70. Appointment of Regulatory Advisory Panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

Statutory Authority

§§ 2.2-4007.02 and 54.1-4403 of the Code of Virginia.

Historical Notes

Derived from Volume 25, Issue 04, eff. November 26, 2008.

18VAC5-11-80. Appointment of Negotiated Rulemaking Panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

Statutory Authority

§§ 2.2-4007.02 and 54.1-4403 of the Code of Virginia.

Historical Notes

Derived from Volume 25, Issue 04, eff. November 26, 2008.

18VAC5-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

Statutory Authority

§§ 2.2-4007.02 and 54.1-4403 of the Code of Virginia.

Historical Notes

Derived from Volume 25, Issue 04, eff. November 26, 2008.

18VAC5-11-100. Public Hearings on Regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

Statutory Authority

§§ 2.2-4007.02 and 54.1-4403 of the Code of Virginia.

Historical Notes

Derived from Volume 25, Issue 04, eff. November 26, 2008.

18VAC5-11-110. Periodic Review of Regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

Statutory Authority

§§ 2.2-4007.02 and 54.1-4403 of the Code of Virginia.

Historical Notes

Derived from Volume 25, Issue 04, eff. November 26, 2008.



townhall.virginia.gov

Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

Agency name	Virginia Board of Accountancy
Virginia Administrative Code (VAC) citation	18 VAC5-11
Regulation title	Public Participation Guidelines
Date	September 1, 2017

This information is required pursuant to Executive Order 17 (2014).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.

Section 54.1-4401 of the Code of Virginia establishes the Virginia Board of Accountancy as a regulatory board with the authority to adopt regulations in accordance with the provisions of Title 54.1 of the Code.

Section 2.2-4007.02 of the Code of Virginia requires rulemaking agencies to develop, adopt, and use public participation guidelines.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

No alternative to this regulation is available, as § 2.2-4007.02 of the Code of Virginia requires rulemaking

agencies to develop, adopt, and use public participation guidelines.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No comments were received during the public comment period that followed the publication of the Notice of Periodic Review, which ended on July 31, 2017, and an informal advisory group was not formed for the purpose of assisting in this periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

This regulation is required by Section 2.2-4007.02 of the Code and establishes the mechanisms by which the agency will advise the public of the agency's regulatory actions. Notice of the agency's regulatory actions assists in protecting the public's welfare. The regulation is clearly written and easily understandable.

Result

Please state that the reason why the agency is recommending that the regulation should stay in effect without change.

The agency recommends that the regulation remain in effect without change because it is mandated by law and assists in notifying the public of the agency's regulatory actions. No significant changes have occurred since this regulation was promulgated that necessitate amending it.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 3) the complexity of the regulation; 4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

The agency determined this regulation continues to be necessary as it is required by Section 2.2-4007.02 of the Code and establishes the mechanisms by which the agency will advise the public of the agency's regulatory actions. The agency has not received any comments or complaints regarding this regulation.

The regulation is not complex and is easily understood. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was promulgated in 2008 using the model public participation guidelines issued by the Department of Planning and Budget. This periodic review is the first evaluation of this regulation subsequent to its adoption in 2008. No factors have changed since 2008 that necessitate amending this regulation. This regulation places no economic burden on any small business.

PROPOSED REGULATIONS (FAST TRACK) as of August 15, 2017

Regulations

18VAC5-22

Effective August 9, 2017

18VAC5-22-10. Definitions.	1
18VAC5-22-20. Fees.	1
18VAC5-22-30. Determining whether persons or entities to whom communications are made, or for whom services are provided, are located in Virginia.	2
18VAC5-22-40. Determining whether a person who holds a Virginia license is providing services to the public using the CPA title or to an employer using the CPA title.	2
18VAC5-22-50. Determining whether the principal place of business of a person using the CPA title, or of a firm, is in Virginia.	2
18VAC5-22-60. Determining whether a college or university is an accredited institution.	3
18VAC5-22-70. Education.	3
18VAC5-22-80. Examination.	4
18VAC5-22-90. Continuing professional education.	5
18VAC5-22-100. Experience.	8
18VAC5-22-110. Demonstrating that a person's education, CPA examination, and experience are substantially equivalent to the requirements for obtaining a Virginia license.	8
18VAC5-22-120. Supervision of firm personnel.	9
18VAC5-22-130. Owners of firms who are not licensees.	9
18VAC5-22-140. Persons who release or authorize the release of reports.	9
18VAC5-22-150. Monitoring program and peer review.	9
18VAC5-22-160. Confidential consent agreements.	10
18VAC5-22-170. Communication between <u>with</u> the board and licensees .	10

Regulations
18VAC5-22
Effective August 9, 2017

18VAC5-22-20. Fees.

A. The board shall charge the following fees for services it provides:

- Processing an initial application to take one or more sections of the CPA examination \$120
- Processing additional applications to take one or more sections of the CPA examination \$20
- ~~Preliminary evaluation of whether a person has met the requirements to take the CPA examination~~ ~~\$25~~
- Processing an application for issuance of a Virginia license to a person \$75
- Processing an application for issuance of a Virginia license to a firm \$100
- Processing an application for the timely renewal of a person's Virginia license \$60
- Processing an application for the timely renewal of a firm's Virginia license \$75
- Additional fee for processing an application for the renewal of a person's Virginia license that is not timely \$100
- Additional fee for processing an application for the renewal of a firm's Virginia license that is not timely \$100
- Processing an application for reinstatement of a person's Virginia license \$350
- Processing an application for reinstatement of a firm's Virginia license \$500
- Processing an application for lifting the suspension of the privilege of using the CPA title in Virginia \$350
- Processing an application for lifting the suspension of the privilege of providing attest services, ~~or~~ compilation services, or financial statement preparation services for persons or entities located in Virginia \$500
- Providing or obtaining information about a person's grades on sections of the CPA examination \$25
- Processing requests for verification that a person or firm holds a Virginia license:
 - 1. Online request \$25
 - 2. Manual request \$50
- Providing an additional CPA wall certificate \$25
- ~~Additional fee for not responding within 30 calendar days to any request for information by the board under subsection A of 18VAC5-22-170~~ ~~\$100~~
- Additional fee for not using the online payment option for any service provided by the board \$25

B. All fees for services the board provides are due when the service is requested and are nonrefundable.

Regulations
18VAC5-22
Effective August 9, 2017

~~**18VAC5-22-40. Determining whether a person who holds a Virginia license is providing services to the public using the CPA title or to an employer using the CPA title.**~~

~~For the purpose of determining whether a person who holds a Virginia license is providing services to the public using the CPA title or to an employer using the CPA title, as those terms are defined in § 54.1-4400 of the Code of Virginia, because of the written information readily available to the public through the board's Internet postings, holding a Virginia license constitutes using the CPA title. Accordingly, a person who holds a Virginia license:~~

- ~~1. Is providing services to the public using the CPA title if he provides services that are subject to the guidance of the standard setting authorities listed in the standards of conduct and practice in subdivisions 5 and 6 of § 54.1-4413.3 of the Code of Virginia.~~
- ~~2. Is providing services to an employer using the CPA title if he provides to an entity services that require the substantial use of accounting, financial, tax, or other skills that are relevant, as determined by the board.~~

18VAC5-22-80. Examination.

A. In order to comply with subdivision A 1 b of § 54.1-4409.2 of the Code of Virginia:

1. Each section of the CPA examination must be passed by attaining a uniform passing grade established through a psychometrically acceptable standard-setting procedure approved by the board; and
- ~~2. Persons may take sections of the CPA examination in any order.~~
- ~~3. A person who fails a section of the CPA examination may not retake that section until the next quarter of the calendar year.~~
- 4.2. When a person first passes a section of the CPA examination, he has 18 months to pass the remaining sections. If the remaining sections are not passed within the 18-month period, the person loses credit for the first section passed, and a new 18-month period starts with the next section passed.

B. Failure to comply with the policies established by the board for conduct at the CPA examination may result in the loss of eligibility to take the CPA examination or credit for sections of the CPA examination passed. Cheating by a person in connection with the CPA examination shall invalidate any grade earned on any section of the CPA examination and may warrant expulsion from the CPA examination site and disqualification from taking the CPA examination for a specified period of time as determined by the board.

C. The board may postpone scheduled CPA examinations, the release of grades, or the issuance of licenses under the following circumstances:

Regulations
18VAC5-22
Effective August 9, 2017

1. A breach of CPA examination security;
2. Unauthorized acquisition or disclosure of the contents of a CPA examination;
3. Suspected or actual negligence, errors, omissions, or irregularities in conducting a CPA examination; or
4. Any other reasonable circumstances.

D. Prior to being considered for a Virginia license, a person shall pass an ethics examination approved by the board.

18VAC5-22-90. Continuing professional education.

A. If during the current calendar year a person ~~who~~ holds a Virginia license ~~provides services to the public~~, he shall have obtained at least 120 hours of continuing professional education during the three-calendar-year period ending with the current calendar year. For each of the calendar years in that period, he shall have obtained at least 20 hours of continuing professional education, including an ethics course of at least two hours.

1. If the person also holds the license of another state and Virginia is not ~~the his~~ principal place of business ~~in which he provides services to the public~~, the ethics course taken to comply with this subsection either shall conform with the requirements prescribed by the board or shall be an ethics course acceptable to the board of accountancy of another state in which the person holds a license.
2. Otherwise, the ethics course shall conform with to the requirements prescribed by the board.

~~B. If during the current calendar year a person who holds a Virginia license provided services to an employer using the CPA title and did not provide services to the public using the CPA title, he shall have obtained a minimum number of hours of continuing professional education determined as follows:~~

- ~~1. If the current calendar year is 2009 or 2010, the person shall have obtained at least 90 hours of continuing professional education during the three calendar year period ending with the current calendar year. For each of the calendar years in that period, he shall have obtained at least 15 hours of continuing professional education, including an ethics course of at least two hours.~~
- ~~2. If the current calendar year is 2011 or later, the person shall have obtained at least 120 hours of continuing professional education during the three calendar year period ending with the current calendar year. For each of the calendar years in that period, he shall~~

Regulations
18VAC5-22
Effective August 9, 2017

~~have obtained at least 20 hours of continuing professional education, including an ethics course of at least two hours.~~

~~The ethics course taken to comply with this subsection either shall conform with the requirements prescribed by the board or shall be an ethics course acceptable to the board of accountancy of another state in which the person holds a license.~~

~~EB.~~ If during the current calendar year a person ~~who~~ holds a Virginia license ~~provided services to the public or to or on behalf of an employer~~ and did not hold a Virginia license or the license of another state during one or both of the two preceding calendar years, he shall determine whether he has complied with the requirements of subsection A ~~or B~~ of this section as follows:

1. If the person became licensed during the current calendar year, he shall be considered to have met the requirements of the subsection for the three-calendar-year period ending with the current calendar year.
2. If the person became licensed during the preceding calendar year, he shall be considered to have met the requirements of the subsection for the three-calendar-year period ending with the current calendar year if during the current calendar year he obtained at least the minimum number of hours of continuing professional education required by the subsection for the current calendar year, including an ethics course of at least two hours.
3. If the person became licensed during the calendar year prior to the preceding calendar year, he shall be considered to have met the requirements of the subsection for the three-calendar-year period ending with the current calendar year if during the current calendar year and the preceding calendar year he obtained at least the minimum number of hours of continuing professional education required by the subsection for each of the years, including for each year an ethics course of at least two hours.

~~EC.~~ If a person who has not held the license of any state applies for a Virginia license after the end of the calendar year in which he passes the CPA examination, he shall obtain continuing professional education prior to applying for the license, including an ethics course of at least two hours.

1. The required minimum number of hours of continuing professional education shall be 40, 80, or 120 depending on whether he applies for the Virginia license by the end of the first calendar year after the calendar year in which he passes the CPA examination, by the end of the second calendar year, or later.
2. The ethics course shall conform ~~with to~~ the requirements prescribed by the board for the calendar year in which the person applies for the license.

Regulations
18VAC5-22
Effective August 9, 2017

Continuing professional education obtained subsequent to passing the CPA examination but during the three calendar years prior to the calendar year in which the person applies for the license and from the start of that calendar year to when he applies for the license shall be considered in determining whether he has complied with this requirement.

D. If during the current calendar year a person who holds a Virginia license ~~did not provide services to the public or to or on behalf of an employer~~ has been granted an exemption by the board, he is not required to have obtained continuing professional education during the three-calendar-year period ending with the current calendar year. However, in order to begin providing those services:

1. He is required to have obtained at least 120 hours of continuing professional education prior to providing the services, including an ethics course of at least two hours.
2. The ethics course shall conform ~~with~~ to the requirements prescribed by the board for the calendar year in which the person begins providing the services.

Continuing professional education obtained during the three calendar years prior to the current calendar year and from the start of the current calendar year to when he begins providing the services shall be considered in determining whether the person has complied with the requirements of this subsection.

~~F~~E. Continuing professional education acceptable to the board may be obtained through a variety of forums, provided there is a means of demonstrating that the education was obtained. ~~The following forums are acceptable~~ The acceptable forums are:

1. ~~Attendance at~~ Attending seminars and educational conferences, provided that the instructors have appropriate knowledge of the subject matter and use appropriate teaching materials and that attendance is monitored in a manner that can be verified by the board;
2. Taking courses at an accredited institution for credit;
3. ~~Self~~ Completing self-study courses, provided there is a method for determining that the person met the learning objectives;
4. Making a presentation at a professional seminar, educational conference, or in a classroom setting, provided the person has appropriate knowledge of the subject matter and uses appropriate teaching materials;
5. Writing material that is relevant to providing services to or on behalf of an employer or to the public, that is formally reviewed by an independent party, and that is published in a book, magazine, or similar publication ~~that is used by persons who provide services to the public using the CPA title or to an employer using the CPA title;~~ and
6. Passing exams and obtaining certifications that have been approved by the board.

Regulations 18VAC5-22 Effective August 9, 2017

Whether other forums are acceptable shall be determined by the board on a case-by-case basis.

GF. In determining whether a person has obtained the required number of hours of continuing professional education:

1. Repeat presentations shall not be considered.
2. No more than 30 hours from preparing for and making presentations shall be considered during each three-calendar-year period.
3. One semester-hour of credit for courses at an accredited institution constitutes 15 hours of continuing professional education, and one quarter-hour of credit constitutes 10 hours of continuing professional education.
4. Credit for examination and certification shall be awarded for the calendar year in which the exam was passed and certification was received. If passage of the exam and certification occur in different calendar years, credit shall be awarded for the calendar year in which the exam was passed. The board shall determine how many hours are credited per certification.
- 4.5. No more than 60 hours from examination and certification shall be considered during each three-calendar-year period.

HG. Depending on the facts and circumstances, the board may waive all or part of the continuing professional education requirement for one or more calendar years or grant additional time for complying with the continuing professional education requirement, provided that the waiver or deferral is in the public interest.

~~18VAC5-22-110. Demonstrating that a person's education, CPA examination, and experience are substantially equivalent to the requirements for obtaining a Virginia license.~~

~~Subdivision A 2 of § 54.1-4411 of the Code of Virginia does not require the person to notify the board that the person's education, CPA examination, and experience are substantially equivalent to the requirements for obtaining a Virginia license.~~

18VAC5-22-140. Persons who release or authorize the release of reports.

A. To comply with subdivision D 4 of § 54.1-4412.1 of the Code of Virginia, a person who releases or authorizes the release of reports on attest services, ~~or~~ compilation services, or financial statement preparation services provided for persons or entities located in Virginia shall annually obtain a minimum of eight hours of continuing professional education related to attest services, ~~or~~ compilation services, or financial statement preparation services. The hours obtained to meet this requirement shall be considered in determining whether the person has complied with the requirements of 18VAC5-22-90.

Regulations
18VAC5-22
Effective August 9, 2017

B. Firms providing attest services, ~~or~~ compilation services, or financial statement preparation services shall establish policies and procedures to provide the firm with reasonable assurance that persons who release or authorize the release of reports on attest services, ~~or~~ compilation services, or financial statement preparation services possess the kinds of competencies that are appropriate given the facts and circumstances. These policies and procedures shall address the required technical proficiency, familiarity with the industry and the person or entity, skills that indicate sound professional judgment, and other competencies necessary under the circumstances.

18VAC5-22-170. Communication ~~between~~ with the board ~~and licensees~~.

A. ~~When requested by the board:~~

- ~~1. Persons or firms applying for the issuance, renewal, or reinstatement of a Virginia license or for lifting the suspension of the privilege of using the CPA title in Virginia or providing attest services or compilation services for persons or entities located in Virginia shall provide the board with support for their conclusion that they have complied with applicable provisions of Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia and this chapter.~~
- ~~2. Firms shall provide the board with proof of enrollment in a monitoring program and copies of reports and other documentation related to acceptance of their peer reviews.~~
- ~~3. Persons or firms shall provide the board documents related to the board's investigation of their possible violation of provisions of Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia or this chapter.~~

~~Each person or firm~~ Every licensee or applicant shall respond within 30 calendar days to any board request for information regarding compliance with any statutes or regulations pertaining to the board or any of the programs that may be in another title of the Code of Virginia for which the board has enforcement responsibility ~~by the board under this subsection. When the requested response is not produced by the licensee or applicant within 30 days, this nonproduction shall be deemed a violation of this rule, unless the licensee or applicant can demonstrate that there is reasonable justification for that delay.~~

B. Each holder of a Virginia license shall notify the board in writing within 30 calendar days of any change in the holder's name or in the postal and electronic addresses where the person or firm may be reached.

C. The board shall transmit courtesy license renewal notices electronically unless a person or firm is unable to communicate electronically. ~~However, § 54.1-4413.2 of the Code of Virginia places t~~he

Regulations
18VAC5-22
Effective August 9, 2017

responsibility for renewing a Virginia license is on its holder, and that responsibility is not affected by whether the holder receives a courtesy license renewal notice.

DRAFT

Board Policy #5

Publication of Board Disciplinary Action

TITLE:

EFFECTIVE DATE:

~~November 10, 2016~~August 31, 2017

AUTHORITY:

§§ 54.1-4402, 4403, 4413.3, 4413.4 and 4414 of the Code of Virginia

POLICY STATEMENT:

It is the policy of the Board to publish in its newsletter, to its website, and to the National Association of State Boards of Accountancy's CPA Verify and Accountancy Licensing Database the information of licensees against whom the Board has taken a disciplinary action ~~resulting in suspensions and revocations, and for other professional violations.~~

In publishing in its newsletter and on its website ~~The the~~ Board ~~publishes~~excludes the information of licensees found to be deficient in CPE credit-hours if there has been no in- ~~the event of a~~ previous CPE deficiency or previous professional violation, or when disciplinary action does not result in suspension or revocation.

The Board also publishes in its newsletter and on its website information of unlicensed individuals and firms against whom the Board has taken a disciplinary action.

This policy is subject to change without notice.

APPROVAL AND REVIEW:

This Board policy was reviewed on ~~November 10, 2016~~August 31, 2017.

SUPERSESION:

This Board policy replaces Board Policy #5 approved on November 10, 2016~~June 30, 2015~~.

**BOARD CHAIR AT
LAST REVIEW:**

~~James M. "Jim" Holland~~Matthew P. Boshier, CPA

**BOARD MEMBERS AT
LAST REVIEW:**

Susan Quaintance Ferguson, CPA~~Matthew P. Boshier~~, Vice Chair
William R. "Bill" Brown, CPA, MBA
D. Brian Carson, CPA, CGMA
~~Susan Quaintance Ferguson, CPA~~
Andrea M. Kilmer, CPA, CFF, CGMA
Stephanie S. Saunders, CPA
Laurie A. Warwick, CPA

EXECUTIVE DIRECTOR:

Wade A. Jewell

Jewell, Wade (BOA)

From: National Association of State Boards of Accountancy (NASBA) <info@nasba.org>
Sent: Tuesday, May 16, 2017 4:45 PM
To: Jewell, Wade (BOA)
Subject: Use of Title Exposure Draft - Request for Written Comments

If you're having trouble viewing this email, you may [see it online](#).

Share this: 

NASBA

National Association of State Boards of Accountancy

Mission Driven - Member Focused

Dear State Board Chairs, Executive Directors and Members,

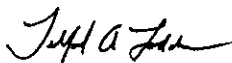
The NASBA and AICPA Boards of Directors have voted to expose the attached proposed amendment to the Uniform Accountancy Act that would, if adopted by state legislatures, allow the use of *bona fide* management accounting titles with certain caveats and restrictions. NASBA continues to support the current UAA language and further believes that such other titles are already prohibited by certain provisions of the current version of the UAA. However, NASBA's Board is concerned that adoption or enforcement of those provisions has appeared less than uniform, leading some states to ask for the exposure of alternative language to provide context for further deliberation and consideration of the issue. Thus, as previewed by Ken Bishop at the 2016 Annual Meeting, NASBA has worked in good faith with AICPA to develop the attached language.

NASBA's Board believes that the proposed language should be thoroughly and transparently considered and vetted by our State Boards. By its decision to expose the language, the NASBA Board has not endorsed placing this or similar language into the UAA, as it awaits State Board input regarding including or not including this change.

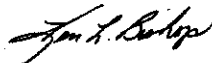
We strongly urge all State Boards to provide written feedback regarding this exposure draft by submitting comment letters to lhaberman@nasba.org before the exposure period closes on September 30, 2017. Please let us know if we should consider including this language and, if we should, whether the proposed language is acceptable or you would suggest edits. The NASBA Board will carefully review all input received to gain a clear understanding of the State Boards' positions before it would decide to move forward with a final vote for or against inclusion of this concept in the UAA.

Please contact us if you have any questions regarding this exposure draft. We would greatly appreciate your thoughtful consideration of this very important matter.

Very truly yours,



Telford A. Loden, CPA
NASBA Chair



Ken L. Bishop
NASBA President & CEO

[Review the Proposed Section 14: Unlawful Acts](#)



NASBA AND AICPA REQUEST INPUT ON TITLE LANGUAGE

COMMENT LETTERS REQUESTED BY SEPTEMBER 30, 2017

Dear State Board and Society Members, Regulators, CPAs and other interested parties:

The AICPA and NASBA have been working to develop new language which, if adopted, would clearly allow non-CPAs to assume or use management accounting designations with certain caveats and restrictions. Recently there has been disagreement about what may or may not be prohibited under Section 14 of the Uniform Accountancy Act (<http://www.aicpa.org/Advocacy/State/DownloadableDocuments/UAASeventhEdition.pdf>) as it relates to the use of management accounting designations by non-CPAs including examples such as Chartered Global Management Accountants (CGMA) and Certified Management Accountants (CMA).

Section 14 (g) currently states:

No person or firm not holding a valid certificate, permit or registration issued under Sections 6, 7, or 8 of this Act shall assume or use the title "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," "accredited accountant," or any other title or designation likely to be confused with the titles "certified public accountant" or "public accountant," or use any of the abbreviations "CA," "LA," "RA," "AA," or similar abbreviation likely to be confused with the abbreviations "CPA" or "PA." The title "Enrolled Agent" or "EA" may only be used by individuals so designated by the Internal Revenue Service.

Section 14(h) currently states:

- (1) Non-licensees may not use language in any statement relating to the financial affairs of a person or entity which is conventionally used by licensees in reports on financial statements or any attest service as defined herein. In this regard, the Board shall issue safe harbor language non-licensees may use in connection with such financial information.
- (2) No person or firm not holding a valid certificate, permit or registration issued under Sections 6, 7, or 8 of this Act shall assume or use any title or designation that includes the words "accountant," "auditor," or "accounting," in connection with any other language (including the language of a report) that implies that such person or firm holds such a certificate, permit, or registration or has special competence as an accountant or auditor, provided, however, that this subsection does not prohibit any officer, partner, member, manager or employee of any firm or organization from affixing that person's own signature to any statement in reference to the financial affairs of such firm or organization with any wording designating the position, title, or office that the person holds therein nor prohibit any act of a public official or employee in the performance of the person's duties as such.

NASBA and AICPA agree that it is in the profession's and the public's interest to have a model accountancy act. A disagreement in interpretation of Section 14 does not serve the profession or its

regulators well.

In light of this, new UAA language that explicitly allows for the use of management accounting designations in both public accounting and in other ways if it meets certain important criteria is being exposed for consideration and comment. Both the AICPA and NASBA are eager to receive all stakeholders' input regarding the proposed language and concept.

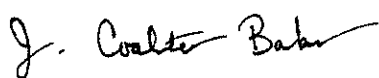
After serious debate with differing viewpoints expressed, the AICPA/NASBA UAA Committee voted to bring this language to the Boards of Directors for them to approve exposing it for public comment. In April both the NASBA Board and the AICPA Board approved exposing the language publicly until September 30, 2017. The language under consideration is the new Section 14(q) which is double underscored at the end of this document.

Again, please note: This is not the end of the process, but an important step in gathering valuable feedback from stakeholders before deciding whether or not to make this UAA change.

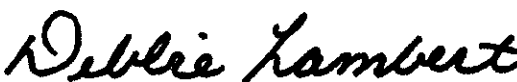
After we hear from state boards, state societies, and other interested parties during the comment period, our procedure is to have the AICPA/NASBA UAA Committee reconvene and review those comments, incorporate any appropriate edits, and then make a final recommendation to the NASBA and AICPA Boards this fall regarding whether to adopt this language, a modified version, or return the topic to the AICPA and NASBA for further discussion.

The UAA Committee would appreciate receiving your input in the form of comment letters submitted by September 30, 2017 to lhaberman@nasba.org or sjolicoeur@aicpa-cima.com.

Sincerely,



J. Coalter Baker, CPA
Chair, NASBA UAA Committee



Debbie Lambert, CPA
Chair, AICPA UAA Committee

Review the Proposed Section 14: Unlawful Acts

National Association of State Boards of Accountancy
150 Fourth Avenue North | Suite 700 | Nashville, TN 37219-2417
Phone: 615-880-4200 | Website: www.nasba.org

American Institute of Certified Public Accountants
220 Leigh Farm Road | Durham, North Carolina 27707-8110
Phone: 888.777.7077 | Website: www.aicpa.org

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SECTION 14

UNLAWFUL ACTS

- (a) **Only licensees and individuals who have practice privileges under Section 23 of this Act may issue a report on financial statements of any person, firm, organization, or governmental unit or offer to render or render any attest or compilation service, as defined herein. This restriction does not prohibit any act of a public official or public employee in the performance of that person's duties as such; or prohibit the performance by any non-licensee 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 thereon. Non-licensees may prepare financial statements and issue non-attest transmittals or information thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS).**

COMMENT: This provision, giving application to the definition of attest in Section 3(b) and report in Section 3(r) above, is the cornerstone prohibition of the Uniform Act, reserving the performance of those professional services calling upon the highest degree of professional skill and having greatest consequence for persons using attested information--namely, the audit function and other attest and compilation services as defined herein -- to licensees. It is so drafted as to make as clear and emphatic as possible the limited nature of this exclusively reserved function and the rights of unlicensed persons to perform all other functions. Consistent with Section 23, individuals with practice privileges may render these reserved professional services to the same extent as licensees.

This provision is also intended to extend the reservation of the audit function to other services that also call for special skills and carry particular consequence for users of such other services, albeit in each respect to a lesser degree than the audit function. Thus, reserved services include the performance of compilations and reviews of financial statements, in accordance with the AICPA's Statements on Standards for Accounting and Review Services, which set out the standards to be met in a compilation or review and specify the form of communication to management or report to be issued. Also reserved to licensees are attestation engagements performed in accordance with Statements on Standards for Attestation Engagements which set forth the standards to be met and the reporting on the engagements enumerated in the SSAEs. The subsection is intended to prevent issuance by non-licensees of reports or communication to management using that standard language or language deceptively similar to it. Safe harbor language which may be used by non-licensees is set out in Model Rule 14-2.

- (b) **Licensees and individuals who have practice privileges under Section 23 of this Act performing attest or compilation services must provide those services in accordance with applicable professional standards.**

- (c) **No person not holding a valid certificate or a practice privilege pursuant to Section 23 of this Act 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 tending to indicate that such person is a certified public accountant.**

COMMENT: This subsection prohibits the use by persons not holding certificates, or practice privileges, of the two titles, “certified public accountant” and “CPA,” that are specifically and inextricably tied to the granting of a certificate as certified public accountant under Section 6.

- (d) **No firm shall provide attest services or assume or use the title “certified public accountants,” or the abbreviation “CPAs,” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is a CPA firm unless (1) the firm holds a valid permit issued under Section 7 of this Act, and (2) ownership of the firm is in accord with this Act and rules promulgated by the Board.**

COMMENT: Like the preceding subsection, this one restricts use of the two titles “certified public accountants” and “CPAs,” but in this instance by firms, requiring the holding of a firm permit to practice unless they qualify for exemption as explained in Section 14(p). It also restricts unlicensed firms from providing attest services.

- (e) **No person shall assume or use the title “public accountant,” or the abbreviation “PA,” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant unless that person holds a valid registration issued under Section 8 of this Act.**

COMMENT: This subsection, and the one that follows, reserve the title “public accountant” and its abbreviation in the same fashion as subsections (c) and (d) do for the title “certified public accountant” and its abbreviation. The two provisions would of course only be required in a jurisdiction where there were grandfathered public accountants as contemplated by Section 8.

- (f) **No firm not holding a valid permit issued under Section 7 of this Act shall provide attest services or assume or use the title “public accountant,” the abbreviation “PA,” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is composed of public accountants.**

COMMENT: See the comments following subsections (d) and (e).

- (g) **No person or firm not holding a valid certificate, permit or registration issued under Sections 6, 7, or 8 of this Act shall assume or use the title “certified accountant,” “chartered accountant,” “enrolled accountant,” “licensed accountant,” “registered accountant,” “accredited accountant,” or any other title or designation likely to be confused with the titles “certified public accountant” or “public accountant,” or use any of the abbreviations “CA,” “LA,” “RA,” “AA,” or similar abbreviation likely to be confused with the abbreviations “CPA” or “PA.” The title “Enrolled Agent” or “EA” may only be used by individuals so designated by the Internal Revenue Service.**

COMMENT: This provision is intended to supplement the prohibitions of subsections (c) through (f) on use of titles by prohibiting other titles that may be misleadingly similar to the titles specifically reserved to licensees or that otherwise suggest that their holders are licensed.

- (h)(1) **Non-licensees may not use language in any statement relating to the financial affairs of a person or entity which is conventionally used by licensees in reports on financial statements or any attest service as defined herein. In this regard, the Board shall issue safe harbor language non-licensees may use in connection with such financial information.**

- (2) **No person or firm not holding a valid certificate, permit or registration issued under Sections 6, 7, or 8 of this Act shall assume or use any title or designation that includes the words “accountant,” “auditor,” or “accounting,” in connection with any other language (including the language of a report) that implies that such person or firm holds such a certificate, permit, or registration or has special competence as an accountant or auditor, provided, however, that this subsection does not prohibit any officer, partner, member, manager or employee of any firm or organization from affixing that person’s own signature to any statement in reference to the financial affairs of such firm or organization with any wording designating the position, title, or office that the person holds therein nor prohibit any act of a public official or employee in the performance of the person’s duties as such.**

COMMENT: This provision clarifies the language and titles that are prohibited for non-licensees. Like the preceding subsection, subsection (h)(2) of this provision is intended to supplement the prohibitions of subsections (c) through (f), by prohibiting other titles which may be misleadingly similar to the specifically reserved titles or that otherwise suggest licensure. In the interest of making the prohibition against the issuance by unlicensed persons of reports on audits, reviews, compilations and reports issued under SSAE as tight and difficult to evade as possible, there is also some overlap between this provision and the prohibitions in subsection (a). Safe harbor language is set out in Rule 14-2.

- (i) **No person holding a certificate or registration or firm holding a permit under this Act shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers or shareholders of the firm, or about any other matter, provided, however, that names**

of one or more former partners, members, managers or shareholders may be included in the name of a firm or its successor. A common brand name, including common initials, used by a CPA Firm in its name, is not misleading if said firm is a Network Firm as defined in the AICPA Code of Professional Conduct (“Code”) in effect July 1, 2011 and, when offering or rendering services that require independence under AICPA standards, said firm must comply with the Code’s applicable standards on independence.

COMMENT: With regard to use of a common brand name or common initials by a Network Firm, this language should be considered in conjunction with Rules 14-1 (c) and (d), which provide further clarity and guidance.

- (j) None of the foregoing provisions of this Section shall have any application to a person or firm holding a certification, designation, degree, or license granted in a foreign country entitling the holder thereof to engage in the practice of public accountancy or its equivalent in such 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 such entitlement, who performs no attest or compilation services as defined in this Act and who issues no reports as defined in this Act with respect to 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 such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.**

COMMENT: The right spelled out in this provision, of foreign licensees to provide services in the state to foreign-based clients, looking to the issuance of reports only in foreign countries, is essentially what foreign licensees have a right to do under most laws now in effect, simply because no provision in those laws restricts such a right. The foreign titles used by foreign licensees might otherwise run afoul of standard prohibitions with respect to titles (such as one on titles misleadingly similar to “CPA”) but this provision would grant a dispensation not found in most laws now in force.

- (k) No holder of a certificate issued under Section 6 of this Act or a registration issued under Section 8 of this Act shall perform attest services through any business form that does not hold a valid permit issued under Section 7 of this Act.**

COMMENT: See the comments following Sections 6(a), 7(a) and 8.

- (l) No individual licensee shall issue a report in standard form upon a compilation of financial information through any form of business that does not hold a valid permit issued under Section**

7 of this Act unless the report discloses the name of the business through which the individual is issuing the report, and the individual:

- (1) signs the compilation report identifying the individual as a CPA or PA,**
 - (2) meets the competency requirement provided in applicable standards, and**
 - (3) undergoes no less frequently than once every three years, a peer review conducted in such manner as the Board shall by rule specify, and such review shall include verification that such individual has met the competency requirements set out in professional standards for such services.**
- (m) Nothing herein shall prohibit a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law.**
- (n)(1) A licensee shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client,**
- (A) an audit or review of a financial statement; or**
 - (B) a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or**
 - (C) an examination of prospective financial information.**

This prohibition applies during the period in which the licensee is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in such listed services.

- (2) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact to any**

person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

- (3) Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment to the client.

(o)(1) A licensee shall not:

- (A) perform for a contingent fee any professional services for, or receive such a fee from a client for whom the licensee or the licensee's firm performs,

(i) an audit or review of a financial statement; or

(ii) a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

(iii) an examination of prospective financial information; or

- (B) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

- (2) The prohibition in (1) above applies during the period in which the licensee is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in any such listed services.

- (3) Except as stated in the next sentence, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending, for example, on the complexity of services rendered.

COMMENT: Section 14(n) on commissions is based on Rule 503 of the AICPA Code of Professional Conduct. Section 14(o) on contingent fees is based on Rule 302 of the AICPA Code of Professional Conduct.

- (p) **Notwithstanding anything to the contrary in this Section, it shall not be a violation of this Section for a firm which does not hold a valid permit under Section 7 of this Act and which does not have an office in this state to use the title “CPA” or “Certified Public Accountants” as part of the firm’s name and to provide its professional services in this state, and licensees and individuals with practice privileges may provide services on behalf of such firms so long as the firm complies with the requirements of Section 7(a)(1)(C) or Section 7(a)(2), whichever is applicable. An individual or firm authorized under this provision to use practice privileges in this state shall comply with the requirements otherwise applicable to licensees in Section 14 of this Act.**

COMMENT: Section 14(p) has been added along with revisions to Sections 23 and 7, to provide that as long as an out-of-state firm complies with the requirements of Section 7(a)(1)(C) or 7(a)(2), whichever is applicable, it can do so through practice privileged individuals without a CPA firm permit from this state. The addition of the last sentence of this Section 14(p) makes certain other provisions of Section 14 that otherwise pertain only to “Licensees” (specifically, Sections 14 (h), (k), (l), (n), and (o)) directly applicable to individuals and firms which are exempt from licensing or permit requirements in this state.

(g)(1) Notwithstanding any other provision of law to the contrary, an individual may use an accounting designation that includes the word “management”, conferred by a bona fide nationally recognized accounting organization such as the American Institute of CPAs, the Chartered Institute of Management Accountants or the Institute of Management Accountants, provided the designation does not purport to confer the right to perform audit, attest or compilation services as defined by any state or foreign jurisdiction.

(2) An individual using an accounting designation in accordance with the provisions in Section 14(g)(1), who does not also maintain a license or practice privilege, shall not:

(A) offer or render audit, attest or compilation services for the public, except under the supervision of a licensee operating within a CPA firm that holds a permit issued in this state or another state.

(B) offer or render tax services to the public, while using such a designation, except within a CPA firm that holds a permit issued in this state or another state.

(C) establish, participate in, or promote a business that markets itself by reference to a designation in 14(q)(1) and is not also a CPA firm that holds a permit issued in this state or another state.

=

(3) The Board may take such actions, as authorized in this Act, to prohibit the use of any accounting designation in this State that does not meet the criteria of this section.

Talking Points

1. The current language in the UAA under Section 14 deals with terms and titles that are confusing or misleading to the public.
2. Current UAA language in 14g, adopted by 42 Boards, bars the use of specific terms such as certified accountant, chartered accountant, registered accountant, accredited accountant or any other title “likely to be confused with certified public accountant or public accountant.”
3. Current language in 14h, adopted by 31 Boards, bars the use of the terms accountant, auditor or accounting in connection with any other language that implies that such person or firm holds a certificate, permit or registration.
4. The proposed 14q carves out certain management designations that when used in accordance with the provisions of 14q would not be considered misleading or confusing.
5. The NASBA board of directors believe the State Boards need to respond to this proposal. Therefore, the board agreed to expose it to the public with the hopes that the vast majority of State Boards will comment.
6. NASBA encourages the Boards to respond to the exposure draft whether they are for, against or have alternative language. The NASBA board needs the State Boards to opine as to whether they want the management accountant language inserted in the UAA.
7. For those Boards that requested language for their states, this may provide them with the necessary uniform language.
8. All Boards are asked to consider the steps they can take to enforce their statutes and regulations in regards to “Use of Titles.”

**Wade's Comments to NASBA Leadership (as Chair of the ED Committee) regarding the CGMA designation and Use of Titles issue following the 2017 ED Conference
(comments were made prior to the exposure draft)**

Promotion and implementation of the CGMA designation for non-CPAs

This topic by far took up the majority of the conversation of Executive Directors. In short, Executive Directors in attendance unanimously opposed any change to UAA language that would allow for the use of management accounting titles (even with restriction). While Executive Directors have not yet seen such language, our concerns include that (1) having this language in the UAA would lend a veneer of credibility to the CGMA for non-CPAs and would therefore put pressure on states to adopt the language, even if there is no desire to do so; (2) once incorporated into the UAA, permitting the CGMA title for non-CPAs opens the door to other opposed titles, creating a "slippery slope" that pressures states into acting contrary to the public interest and public protection; and (3) via the UAA, NASBA is inadvertently providing an authoritative source that could be wielded by the AICPA and/or state societies interested in promoting management accounting titles to lobby for legislative changes throughout the country.

Executive Directors in attendance believe any such language permitting the use of management accounting titles should have initially been proposed by NASBA directly to state boards interested in such language and not part of a proposal to change the UAA, particularly since only a handful of states had apparently expressed interest in such changes to their statutes and regulations. Following a discussion of these outlier states with NASBA leadership, it appears that there may be a disconnect between some Executive Directors and their respective board members that must be addressed by the state boards, with NASBA assistance where possible.

It is our understanding that the proposed language has been approved by NASBA's UAA Committee, with a presentation of the language to be made to the NASBA Board next week. While the language has not been made public to date, it is the opinion of the Executive Directors present at the conference that NASBA has put the metaphorical cart before the horse by moving forward with a proposed UAA language change. However, knowing that the proposed language is "moving forward", we look forward to eventually seeing the language and providing further comment when offered the opportunity.

**Marijuana Legalization and State Boards of Accountancy
(alphabetically by state/territory)**

State/Territory	Possession	Sale	Transportation	Cultivation	Accountancy Board Guidance	Adopted
Alabama	Medical use of non-psychoactive CBD oil only	Felony	Unknown	Illegal	N/A	N/A
Alaska	Legal	Medical & recreational use	Legal to carry up to 1 oz.	Legal to grow up to 12 plants in a household with two adults over 21, or an unlimited number commercially with a license	N/A	N/A
American Samoa	Illegal	Illegal	Illegal	Illegal	N/A	N/A
Arizona	Medical use only	Medical use only	Medical use only	Medical use only	N/A	N/A
Arkansas	Medical use only	Medical use only	Medical use only	Unknown	N/A	N/A
California	Legal	Medical & recreational use	Legal to carry up to 1 oz.	Legal to grow up to six plants for an individual, or commercially with a license	N/A	N/A
Colorado	Legal	Medical & recreational use	Legal to carry up to 1 oz.	Legal to grow up to six plants for an individual, or commercially with a license	"...offering to perform or performing professional services for clients in the marijuana industry who are in compliance with Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code is not in itself specifically prohibited by the Accountancy Act codified in Section 2 of Title 12 of the Colorado Revised Statutes or the State Board of Accountancy Rules."	12/16/2015
Connecticut	Decriminalized	Felony	Felony	Felony	"in the absence of such a determination [that a Connecticut CPA 2015 or CPA firm has violated drug laws] by the courts, the Connecticut Board of Accountancy will not pursue independent disciplinary action against Connecticut CPAs or CPA firms who are operating within the bounds of state law."	
Delaware	Medical use only	Medical use only	Medical use only	Medical use only	N/A	N/A
District of Columbia	Legal	Medical use only	Legal to carry up to 2 oz.	Legal to grow up to 6 plants (only 3 mature at a time) for recreational purposes	N/A	N/A
Florida	Medical use only	Medical use only	Medical use only	Medical use only	"...the provision of public accounting services, as defined in Section 473.302(8), FS, to marijuana-related businesses in states where marijuana-related businesses have been legalized, in the absence of a criminal conviction of the certified public accountant for the provision of those services, in and of itself does not constitute a lack of good moral character."	9/30/2015

**Marijuana Legalization and State Boards of Accountancy
(alphabetically by state/territory)**

Georgia	Medical use of non-psychoactive CBD oil only	Medical use only	Medical use only	Illegal	N/A	N/A
Guam	Medical use only	Medical use only	Medical use only	Medical use only	N/A	N/A
Hawaii	Medical use only	Medical use only	Against program rules	Medical use only	N/A	N/A
Idaho	Misdemeanor	Felony	Unknown	Felony	N/A	N/A
Illinois	Medical use only	Medical use only	Medical use only	Medical use only	N/A	N/A
Indiana	Medical use of non-psychoactive CBD oil only	Illegal	Unknown	Illegal	N/A	N/A
Iowa	Medical use of non-psychoactive CBD oil only	Felony	Unknown	Felony	N/A	N/A
Kansas	Misdemeanor	Illegal	Unknown	Illegal	N/A	N/A
Kentucky	Misdemeanor	Misdemeanor	Unknown	Misdemeanor	N/A	N/A
Louisiana	Medical use only	Medical use only	Medical use only	Illegal	N/A	N/A
Maine	Legal	Medical & recreational use	Legal to carry up to 2.5 oz.	Legal to grow up to six plants for an individual, or commercially with a license	N/A	N/A
Maryland	Decriminalized	Medical use only	Medical use only	Medical use only	"Upon advice of counsel, in light of the current state of Maryland and Federal law, the Board will take no regulatory action against a CPA or firm solely on the basis that the CPA or firm provides services to a business involved in the sale or distribution of marijuana, provided that the business is operating legally under applicable state law."	2015
Massachusetts	Legal	Medical & recreational use	Legal to carry up to 1 oz. outside the home and to carry up to 10 oz. inside the home	Legal to grow up to six plants for an individual, or commercially with a license	N/A	N/A
Michigan	Medical use only	Medical use only	Medical use only	Medical use only	N/A	N/A
Minnesota	Medical use only	Medical use only	Medical use only	Illegal	N/A	N/A
Mississippi	Decriminalized	Illegal	Unknown	Illegal	N/A	N/A
Missouri	Medical use of non-psychoactive CBD oil	Felony	Unknown	Illegal	N/A	N/A
Montana	Medical use only	Medical use only	Medical use only	Medical use only	N/A	N/A
Nebraska	Decriminalized	Illegal	Unknown	Illegal	N/A	N/A

**Marijuana Legalization and State Boards of Accountancy
(alphabetically by state/territory)**

Nevada	Legal	Medical & recreational use	Medical use only	Unknown	"...Nevada licensees and firms that elect to provide services to the marijuana industry legalized in any state in which the licensee practices will not face action by the Board based solely on the fact that the licensee or firm is providing such services."	11/16/2015
New Hampshire	Decriminalized	Medical use only	Medical use only	Medical use only	N/A	N/A
New Jersey	Medical use only	Medical use only	Medical use only	Illegal	N/A	N/A
New Mexico	Medical use only	Medical use only	Medical use only	Medical use only	N/A	N/A
New York	Medical use only	Misdemeanor	Unknown	Misdemeanor	N/A	N/A
North Carolina	Decriminalized	Illegal	Illegal	Illegal	N/A	N/A
North Dakota	Medical use only	Medical use only	Medical use only	Unknown	N/A	N/A
Northern Mariana Islands	Illegal	Illegal	Illegal	Illegal	N/A	N/A
Ohio	Decriminalized	Medical use only	Unknown	Illegal	N/A	N/A
Oklahoma	Medical use of non-psychoactive CBD oil only	Illegal	Unknown	Illegal	N/A	N/A
Oregon	Legal	Medical & recreational use	Legal transport of up to 1 oz.; by January 1, 2016: legal transport of larger amounts by marijuana cultivators	Legal cultivation by adults over 21 of up to 4 plants per household.	"...Oregon licensees and firms that elect to provide services to the marijuana industry legalized in any state in which the licensee practices, will not face action by the Board for violation of the State of Oregon Board of Accountancy's Code of Professional Conduct, based solely on the fact that the licensee or firm is providing such services."	3/19/2015
Pennsylvania	Medical use only	Illegal	Illegal	Illegal	N/A	N/A
Puerto Rico	Medical use only	Medical use only	Medical use only	Medical use only	N/A	N/A
Rhode Island	Medical use only	Medical use only	Medical use only	Medical use only	N/A	N/A
South Carolina	Misdemeanor	Illegal	Unknown	Illegal	N/A	N/A
South Dakota	Misdemeanor	Illegal	Unknown	Illegal	N/A	N/A
Tennessee	Medical use of non-psychoactive CBD oil only	Felony	Unknown	Misdemeanor for 9 plants or fewer; felony otherwise	N/A	N/A
Texas	Medical use of non-psychoactive CBD oil only	Felony	Unknown	Illegal	N/A	N/A
U.S. Virgin Islands	Decriminalized	Illegal	Illegal	Illegal	N/A	N/A
Utah	Misdemeanor	Felony	Unknown	Illegal	N/A	N/A
Vermont	Medical use only	Medical use only	Medical use only	Medical use only	N/A	N/A
Virginia	Misdemeanor	Illegal	Unknown	Illegal	N/A	N/A

**Marijuana Legalization and State Boards of Accountancy
(alphabetically by state/territory)**

Washington	Legal	Medical & recreational use	Legal to carry up to 1 oz.	Legal with restrictions & licensing	"...offering or performing professional services to those commercial business enterprises licensed by the Washington State Liquor Control Board (WSLCB) to produce marijuana, process marijuana, and sell marijuana products for recreational use as defined in Initiative No. I-502 is not specifically prohibited by the Public Accountancy Act or Board Rules."	2015
West Virginia	Medical use only	Medical use only	Unknown	Illegal	N/A	N/A
Wisconsin	Medical use of non-psychoactive CBD oil only	Felony	Unknown	Qualifying patients can possess 12 marijuana plants	N/A	N/A
Wyoming	Misdemeanor	Illegal	Unknown	Illegal	N/A	N/A

VBOA

CPE Credit for Certifications/Exams/Licensures

Credential	Process	Recommended study	Test Length	CPE Hours	Comments
Chartered Alternative Investment Analyst (CAIA)	Level I	200 hours (Average per CAIA website)	4 hours; 200 multiple choice	25	CBT
	Level II	200 hours (Average per CAIA website)	4 hours; 100 multiple choice; 3 sets of essay questions	25	CBT
Chartered Financial Analyst (CFA)	Level I	300 hours each level (per CFA website as reported by candidates) 4 years to complete all 3 levels	6 hours; 240 multiple choice	30	Paper
	Level II		6 hours; 120 items (20 vignettes with 6 items each)	30	Paper
	Level III		6 hours; 8-12 essay questions; 10 item sets	30	Paper
Certified Accounts Payable Professional (CAPP)		Minimum 3 months per Institute of Financial Operations (accrediting organization)	3 hours; 200 multiple choice	20	CBT
Certified Managerial Accountant (CMA)	Part 1: Financial Reporting, Planning, Performance, Control	150 hours (average per candidates)	4 hours; 100 multiple choice & 2 essay questions	20	CBT
	Part 2: Financial Decision Making	150 hours (average per candidates)	4 hours: 100 multiple choice & 2 essay questions	20	CBT
Retirement Income Certified Professional (RICP)	3 courses each followed by an exam	60-70 hours per American College (accrediting organization) staff	2 hours; 100 multiple choice (each exam)	20	CBT
Chartered Enterprise Risk Analyst (CERA)	5 exams 3 study units	3-4 years per Society of Actuaries website (accrediting organization)			All exams CBT
	Exam P Probability		3 hours	15	Knowledge of the fundamental probability tools for quantitatively assessing risk; application of these tools to problems encountered in actuarial science; thorough command of probability topics and the supporting calculus.
	Exam FM Financial Mathematics		3 hours	15	Understand/apply concepts of financial mathematics in calculating present and accumulated values for various streams of cash flows as a basis for future use in: reserving, valuation, pricing, asset/liability management, investment income, capital budgeting and valuing contingent cash flows; financial instruments, including derivatives, and the concept of no-arbitrage as it relates to financial mathematics.
	Exam MFE Models for Financial Economics		3 hours	15	Application of actuarial models to insurance and other financial risks; knowledge of calculus, probability and interest theory.

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CPE Credit for Certifications/Exams/Licensures

Credential	Process	Recommended study	Test Length	CPE Hours	Comments
	Exam C Construction and Evaluation of Actuarial Models		3 1/2 hours	15	Modeling and actuarial methods; thorough knowledge of calculus, probability and mathematical statistics.
	ERM Exam Enterprise Risk Management Exam		4 hours	15	Understand, identify, analyze, measure, manage and allocate risk using models and metrics
	Fundamentals of Actuarial Practice (FAP) E-Learning Course		8 modules of online study & two comprehensive written assessments	15	This course teaches candidates about the business environment and exposes them to real-world situations by using the Control Cycle as a practical problem-solving framework that applies to all aspects of actuarial work.
	Enterprise Risk Management Module		9 modules of online study & one comprehensive exam and comprehensive exercise		Provides an understanding of developing an ERM framework, identifying/defining operational risks, developing and analyzing economic capital models, and understanding various risk management approaches.
	Associateship Professionalism Course		1/2 day seminar (9am - 3pm)		Covers professionalism, ethics and legal liability and makes extensive use of the case study method
	VEE Economics (Validation by Education Experience)				The topic of Economics requires Validation by Education Experience.
	VEE Corporate Finance (Validation by Education Experience)				The topic of Corporate Finance requires Validation by Education Experience.
Life & Annuities & Health Insurance Licensure	Pass exam prior to licensure; no certification per se	25 - 35 hours based upon student comments	2.5 hours; 150 multiple choice (of which 10 are experimental)	10	<p style="text-align: center;">CBT</p> <p>(Virginia requires separate licenses, the exams may be taken separately, i.e. Life & Annuities (120 minutes) and Health (120 minutes) are separate exams or can be taken as one exam Life & Annuities & Health (150 minutes))</p> <p style="text-align: center;"><i>See VA Insurance Licensing Candidate Handbook; https://www.asisvcs.com/publications/pdf/125300.pdf</i></p>
Series 7 Exam	Financial Industry Regulatory Authority, Inc. (FINRA): self-regulating body for the financial industry, responsible for setting regulations	60 - 100 hours per professional study guides (mean 80 hours)	6 hours; 250 multiple choice (and an additional 10 are experimental)	25	CBT
Series 66 Exam		40 - 80 hours per professional study guides (mean 60 hours)	2.5 hours; 100 multiple choice (and an additional 10 are experimental)	10	CBT

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CPE Credit for Certifications/Exams/Licensures

Credential	Process	Recommended study	Test Length	CPE Hours	Comments
Series 65 Exam	and standards for financial professionals	50 - 90 hours per professional study guides (mean 70 hours)	3 hours; 130 multiple choice	20	CBT
Series 6 Exam	Financial Industry Regulatory Authority, Inc. (FINRA): self-regulating body for the financial industry,	35 - 40 hours per professional study guides (mean 37.5 hours)	2.25 hours; 100 multiple choice (and an additional 5 are experimental)	10	CBT
Series 63 Exam	responsible for setting regulations and standards for financial professionals	24 - 30 hours per professional study guides (mean 27 hours)	1.25 hours; 60 multiple choice (and an additional 5 are experimental)	7	CBT
CFP Certified Financial Planner	Bachelor degree (any) Personal financial planning coursework (or "challenge status" 6,000 hours experience Ethics Declaration	CPA's qualify for "Challenge Status" exempting them from the majority of pre-test coursework. Recommended study time varies wildly likely due to inclusion of pre-test coursework for most candidates. Minimum study time for any candidate would be in excess of 100 hours.	6 hours (two 3-hour sessions with 40 minute break); 170 multiple choice (stand-alone and scenario-based questions)	30	CBT
Certified Anti-Money Laundering Specialist (CAMS)	Exam candidates must have a minimum of 40 qualifying credits based on education, experience or other certifications. (For example, Masters Degree = 30 credits; CPA = 10 credits)	20 - 35 hours based upon student comments	3 1/2 hours; 120 multiple choice (most candidates report finishing considerably earlier than the allotted time)	10	CBT
ACAMS Advanced AML Audit Certification (CAMS-Audit)	CAM certification: Audit, AML experience or Audit certification	8-10 hours pre-class study 3 day live session	White paper required in lieu of exam.	10	CBT
UNDER CONSIDERATION:					
	Exam 1: Governmental Environment (GE)		2.25 hours; 115 multiple choice	10	CBT

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CPE Credit for Certifications/Exams/Licensures

Credential	Process	Recommended study	Test Length	CPE Hours	Comments
Certified Government Financial Manager (CGFM)	Exam 2: Governmental Accounting, Financial Reporting and Budgeting (GAFRB)	Varies widely depending upon past governmental experience. Generally viewed as "moderately difficult."	2.25 hours; 115 multiple choice	10	CBT
	Exam 3: Governmental Financial Management and Control (GFMC)		2.25 hours; 115 multiple choice	10	CBT

Title 54.1 Professions and Occupations

Chapter 1. General Provisions

§ 54.1-101.1. Certified mail; subsequent mail or notices may be sent by regular mail.

Whenever in this title any regulatory board within the Department of Professional and Occupational Regulation, ~~or~~ the Department of Health Professions or the Board of Accountancy is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by any such regulatory board may be sent by regular mail.

§ 54.1-104. Suspension of license, certificate, registration, permit, or authority for dishonor of fee payment; reinstatement.

The Department of Professional and Occupational Regulation, ~~and~~ the Department of Health Professions, and the Board of Accountancy may suspend the license, certificate, registration, permit, or authority it has issued any person who submits a check, money draft, or similar instrument for payment of a fee required by statute or regulation which is not honored by the bank or financial institution named. The suspension shall become effective 10 days following delivery by certified mail of written notice of the dishonor and the impending suspension to such person's address. Upon notification of suspension, the person may reinstate the license, certificate, registration, permit, or authority upon payment of the fee and penalties required under statute or regulation. Suspension under this provision shall be exempt from the Administrative Process Act (§ [2.2-4000](#) et seq.).

§ 54.1-111. Unlawful acts; prosecution; proceedings in equity; civil penalty.

A. It shall be unlawful for any person, partnership, corporation or other entity to engage in any of the following acts:

1. Practicing a profession or occupation without holding a valid license as required by statute or regulation.
2. Making use of any designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.
3. Making use of any titles, words, letters or abbreviations which may reasonably be confused with a designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.
4. Performing any act or function which is restricted by statute or regulation to persons holding a professional or occupational license or certification, without being duly certified or licensed.
5. Failing to register as a practitioner of a profession or occupation as required by statute or regulation.
6. Materially misrepresenting facts in an application for licensure, certification or registration.

7. Willfully refusing to furnish a regulatory board information or records required or requested pursuant to statute or regulation.

8. Violating any statute or regulation governing the practice of any profession or occupation regulated pursuant to this title.

9. Refusing to process a request, tendered in accordance with the regulations of the relevant health regulatory board or applicable statutory law, for patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice.

Any person who willfully engages in any unlawful act enumerated in this section shall be guilty of a Class 1 misdemeanor. The third or any subsequent conviction for violating this section during a 36-month period shall constitute a Class 6 felony. In addition, any person convicted of any unlawful act enumerated in subdivision 1 through 8 of this subsection, for conduct that is within the purview of any regulatory board within the Department of Professional and Occupational Regulation, may be ordered by the court to pay restitution in accordance with §§ [19.2-305](#) through [19.2-305.4](#).

B. In addition to the criminal penalties provided for in subsection A, the Department of Professional and Occupational Regulation, ~~or the Department of Health Professions~~ or the Board of Accountancy, without compliance with the Administrative Process Act (§ [2.2-4000](#) et seq.), shall have the authority to enforce the provisions of subsection A and may institute proceedings in equity to enjoin any person, partnership, corporation or any other entity from engaging in any unlawful act enumerated in this section and to recover a civil penalty of at least \$200 but not more than \$5,000 per violation, with each unlawful act constituting a separate violation; but in no event shall the civil penalties against any one person, partnership, corporation or other entity exceed \$25,000 per year. Such proceedings shall be brought in the name of the Commonwealth by the appropriate Department in the circuit court or general district court of the city or county in which the unlawful act occurred or in which the defendant resides.

C. This section shall not be construed to prohibit or prevent the owner of patient records from (i) retaining copies of his patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice or (ii) charging a reasonable fee, in accordance with subsections B2, B3, B4, and B6 of § [8.01-413](#) or subsection J of § [32.1-127.1:03](#), for copies of patient records, as applicable under the circumstances.

D. Nothing in this section, nor §§ [13.1-543](#), [13.1-1102](#), [54.1-2902](#), and [54.1-2929](#), shall be construed to prohibit or prevent any entity of a type listed in § [13.1-542.1](#) or [13.1-1101.1](#), which employs or contracts with an individual licensed by a health regulatory board, from (i) practicing or engaging in the practice of a profession or occupation for which such individual is licensed, (ii) providing or rendering professional services related thereto through the licensed individual, or (iii) having a legitimate interest in enforcing the terms of employment or its contract with the licensed individual.

E. This section shall apply, mutatis mutandis, to all persons holding a multistate licensure privilege to practice nursing in the Commonwealth of Virginia.

§ 54.1-112. Copies of records as evidence.

Copies of all records, documents and other papers of the Department of Professional and Occupational Regulation, ~~and~~ the Department of Health Professions and their regulatory boards, ~~or~~ [the Board of Accountancy](#) which bear the official seal and which are duly certified and authenticated in writing on the face of such documents to be true copies by the custodian thereof and by the person to whom the custodian reports shall be received as evidence with like effect as the original records, documents or other papers in all courts of the Commonwealth.

Title 54.1 Administration of Government

Chapter 40. Administrative Process Act

§ 2.2-4006. Exemptions from requirements of this article.

A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be exempted from the operation of this article:

1. Agency orders or regulations fixing rates or prices.
2. Regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority.
3. Regulations that consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.
4. Regulations that are:
 - a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. However, such regulations shall be filed with the Registrar within 90 days of the law's effective date;
 - b. Required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or
 - c. Necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing. Notice of the proposed adoption of these regulations and the Registrar's determination shall be published in the Virginia Register not less than 30 days prior to the effective date of the regulation.
5. Regulations of the Board of Agriculture and Consumer Services adopted pursuant to subsection B of § 3.2-3929 or clause (v) or (vi) of subsection C of § 3.2-3931 after having been considered at two or more Board meetings and one public hearing.
6. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and (ii) the Department of Professional and Occupational Regulation, ~~or~~ the Department of Health Professions [or the Board of Accountancy](#) pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants.
7. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.

8. General permits issued by the (a) State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 or (b) State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1, (c) Virginia Soil and Water Conservation Board pursuant to the Dam Safety Act (§ 10.1-604 et seq.), and (d) the development and issuance of general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307, if the respective Board or Commission (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least one public hearing on the proposed general permit.

9. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.

10. Regulations of the Board of the Virginia College Savings Plan adopted pursuant to § 23.1-704.

11. Regulations of the Marine Resources Commission.

12. Regulations adopted by the Board of Housing and Community Development pursuant to (i) Statewide Fire Prevention Code (§ 27-94 et seq.), (ii) the Industrialized Building Safety Law (§ 36-70 et seq.), (iii) the Uniform Statewide Building Code (§ 36-97 et seq.), and (iv) § 36-98.3, provided the Board (a) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (b) publishes the proposed regulation and provides an opportunity for oral and written comments as provided in § 2.2-4007.03, and (c) conducts at least one public hearing as provided in §§ 2.2-4009 and 36-100 prior to the publishing of the proposed regulations. Notwithstanding the provisions of this subdivision, any regulations promulgated by the Board shall remain subject to the provisions of § 2.2-4007.06 concerning public petitions, and §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.

13. Amendments to regulations of the Board to schedule a substance pursuant to subsection D or E of § 54.1-3443.

14. Waste load allocations adopted, amended, or repealed by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), including but not limited to Article 4.01 (§ 62.1-44.19:4 et seq.) of the State Water Control Law, if the Board (i) provides public notice in the Virginia Register; (ii) if requested by the public during the initial public notice 30-day comment period, forms an advisory group composed of relevant stakeholders; (iii) receives and provides summary response to written comments; and (iv) conducts at least one public meeting. Notwithstanding the provisions of this subdivision, any such waste load

allocations adopted, amended, or repealed by the Board shall be subject to the provisions of §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.

15. Regulations of the Workers' Compensation Commission adopted pursuant to § 65.2-605, including regulations that adopt, amend, adjust, or repeal Virginia fee schedules for medical services, provided the Workers' Compensation Commission (i) utilizes a regulatory advisory panel constituted as provided in subdivision F 2 of § 65.2-605 to assist in the development of such regulations and (ii) provides an opportunity for public comment on the regulations prior to adoption.

B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this section shall be in accordance with the provisions of § 2.2-4015, except in the case of emergency regulations, which shall become effective as provided in subsection B of § 2.2-4012.

C. A regulation for which an exemption is claimed under this section or § 2.2-4002 or 2.2-4011 and that is placed before a board or commission for consideration shall be provided at least two days in advance of the board or commission meeting to members of the public that request a copy of that regulation. A copy of that regulation shall be made available to the public attending such meeting.