

Exposure Draft

Uniform

Accountancy Act

Seventh Edition
_____, 2013

Firm Mobility Guidance

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The base document is the 6th Edition of the UAA (pertinent parts). Changes made per the Attest ED are shown as either single blackline underlined or ~~single blackline strike through~~. Changes made per the firm mobility proposal are shown as either double blackline underlined or ~~double blackline strike through~~. Note: If the firm mobility language resulted in a change to language from the Attest ED, the Attest ED is shown as a ~~double blackline strike through~~.

Comments must be received by January 31, 2014.

Please send your comments to
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EXPOSURE DRAFT OF UNIFORM ACCOUNTANCY ACT

After thorough consideration of the key issues discussed below, leadership of NASBA and AICPA strongly believe, as long as the existing element of public protection is preserved, the time has come to give serious consideration to enact firm mobility, as a logical extension of individual mobility. The necessary changes to the Uniform Accountancy Act reflected in the accompanying Exposure Draft retain the essential ownership, peer review and consent to jurisdiction concepts, and thus the vital element of protection of the public is preserved.

Beginning in 2006, the efforts of NASBA, State Boards of Accountancy, AICPA and state CPA societies resulted in virtually uniform enactment by NASBA's 55 jurisdictions of "no notice, no fee, no escape" practice privileges for qualified ("substantially equivalent") individuals who cross state lines. While there are professional services which the practice privilege individuals can perform without creating a registration requirement for the out-of-state firms that employ them, such firm registration is required if the individuals are performing certain specified attest services.

The essential element of protection of the public interest was carefully considered when the individual practice privilege provision was added to the UAA. The substantial equivalence requirements (education, examination and experience) provide the "host" state with the assurance that the "visiting" individuals are equal to its own state's licensees. The same quality assurance concept exists as to the visiting firms which employ these individuals performing attest services. The firms are required to meet the host state's ownership and peer review requirements. Furthermore, both the individuals and the firms that employ them automatically consent to the jurisdiction and disciplinary authority of the host state's Board of Accountancy. This is critical to effective protection of the public.

The enactment of practice privileges has created a significantly greater similarity in licensure requirements among the vast majority of states. The public has benefited through an enhanced ability to engage the CPA firm/individuals they believe to be most appropriate, without concerning themselves with the various state licensure issues. This conformity has also been very beneficial for both the qualified individuals and their firms, as they can now practice across state lines without dealing with either uncertainty as to their status from state to state or the burden of excess paperwork.

There are currently about 16 states (by statute or practice) that do not specifically require a visiting firm to obtain a permit even when their employed individuals are performing attest services. Considering this factor, in addition to the significant increase in the volume of cross-border practice that has resulted from the virtually complete enactment of individual practice privileges, it is appropriate to consider the issue of whether the various states have experienced a rise in the number of related consumer complaints. In this regard, surveys performed to date clearly indicate that the states are not experiencing increased disciplinary problems attributable to the increase in practice across state lines. In the few instances when such problems have arisen, they have been effectively dealt with by the host state, with additional referral to the Board of Accountancy in the principal place of business state of the visiting licensee. The combination of the attest definition change and the firm mobility proposal presents a logical

extension of substantial equivalence for individuals: if a CPA firm complies with peer review and firm ownership, for all practical purposes it has a gold pass and only has to register in states where it has an office. Furthermore, firms (without in-state offices) can use the CPA title and provide compilations and other nonattest services without a permit so long as they do so through an individual with practice privileges and the firm can lawfully render those services in the principal place of business states of the practice privilege individuals.

Public protection is enhanced because the proposal favors firms that are peer reviewed, avoids the potential ambiguity of the “home office” issue, and extends administrative jurisdiction over any firm offering or rendering services in the state. The greatest protection is simply and logically provided for all attest services including various SSAE services that also require technical competence, independence in mental attitude, due professional care, adequate planning and supervision, sufficient evidence, and appropriate reporting. From the standpoint of both public protection and firm mobility, the CPAs and CPA firms from the 48 states which already require peer review will be able to “move freely about the country...” without obtaining permits in states where they have no office or worrying about whether their client has a “home office” in a particular state.

In conclusion, the digital age continues to generate a significant expansion of the interstate practice of public accountancy. Consequently, it is important to our economy that such practice be encouraged / facilitated in a manner consistent with the protection of all users of the services – i.e., the public. Enactment of this proposal will enable firms that are licensed in at least one state and meet the UAA ownership and peer review requirements to temporarily practice across state lines without a permit. Firms that do not meet such requirements will still have to obtain a permit in the visiting state. Enactment could also have the positive effect of providing strong incentive for those states whose licensure requirements do not conform to those prescribed by the UAA to amend their statutes, in order to enhance protection of the public and create a more efficient pathway to interstate practice for their own licensees. The entire proposal is thus presented in the spirit of providing all stakeholders with a safe and more efficient pathway for the interstate practice of public accountancy.

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NOTE: This proposed language builds upon the current exposure draft revising the definition of “attest.” Thus, changes arising solely from the “attest” exposure draft are marked in single underline or single strikethrough, while additional revisions from the new firm mobility language are identified by double underlining and double strikethrough.

1 **Introductory Comments**

2 ***

3
4
5 **The Fundamental Principles That Should Govern the Regulation of Certified Public**
6 **Accountants**

7
8 ***

9
10 *Eighth*, it is desirable that there be, to the maximum extent feasible, uniformity among
11 jurisdictions with regard to those aspects of the regulatory structure that bear upon the
12 qualifications required of licensees. Because many of the clients or employers of CPAs are
13 multistate enterprises, much of the practice of CPAs has an interstate character; consequently,
14 CPAs must be able to move freely between states. The need for interstate mobility and
15 maintenance of high minimum standards of competence in the public interest requires uniform
16 licensing qualifications, insofar as possible, among the states.

17
18 *Ninth*, and finally, it is essential that mobility for individual CPAs and CPA Firms be
19 enhanced. With respect to the goal of portability of the CPA title and mobility of CPAs across
20 state lines, the cornerstone of the approach recommended by this Act is the standard of
21 “substantial equivalency” set out in Section 23. Under substantial equivalency, a CPA’s ability
22 to obtain reciprocity ~~would be~~ is simplified and they ~~would~~ have the right privilege to practice in
23 another state without the need to obtain an additional license in that state unless it is where their
24 principal place of business is located, as determined by the licensee. Individuals ~~would be~~ are not
25 ~~be~~ denied reciprocity or practice ~~rights~~ privileges because of minor or immaterial differences in
26 the requirements for CPA certification from state-to-state. ~~However, individuals with practice~~
27 ~~privileges who wish to provide certain attest services for a client whose home office is in a state~~
28 ~~must do so only through a firm with a permit in the practice privilege state.~~

29
30 Substantial equivalency is a determination by the Board of Accountancy, or NASBA, that the
31 education, examination and experience requirements contained in the statutes and administrative
32 rules of another jurisdiction are comparable to, or exceed, the education, examination and
33 experience requirements contained in the Uniform Accountancy Act. If the state of licensure
34 does not meet the substantial equivalency standard, individual CPAs may demonstrate that they
35 personally have education, examination and experience qualifications that are comparable to or
36 exceed those in the Uniform Accountancy Act.

37
38 For purposes of individual practice rights privileges, an applicant that has an active certificate as
39 a certified public accountant from any jurisdiction that has obtained from the Board of
40 Accountancy or NASBA a determination of substantial equivalency with the Uniform
41 Accountancy Act’s CPA certificate requirements shall be presumed to have qualifications
42 substantially equivalent to this jurisdiction’s. Individual CPAs from states that are not
43 substantially equivalent may qualify under the substantial equivalency standard on an individual
44 basis. Any CPA that wants to obtain a reciprocal certificate under substantial equivalency must
45 personally possess qualifications that are substantially equivalent to, or exceed, the CPA
46 licensure provisions in the Uniform Accountancy Act.

47
48 Firm mobility would be enhanced because even though an individual using practice privileges
49 must render attest services through a CPA firm licensed in some state, if the firm complies with
50 the ownership (Section 7(c)) and peer review (Section 7(h)) requirements, the firm would only
51 need a permit in the states in which it has an office, regardless of the type of service or where
52 such service is performed. The ownership and peer review requirements would thus protect the
53 "visiting state" through firm quality standards comparable to substantial equivalency for practice
54 privilege individuals. For purposes of firm mobility, a firm holding a valid permit from a U.S.
55 jurisdiction, complying with the firm ownership and peer review requirements, would be able to
56 perform any professional service (including attest) in any other state so long as it does so through
57 individuals with practice privileges who can lawfully do so in the state where said individuals
58 have their principal place of business. A firm not meeting both the ownership and peer review
59 requirements could provide nonattest services and use the "CPA" title in any other state so long
60 as it does so through individuals with practice privileges, and so long as the firm can lawfully do
61 so in the state where said individuals with practice privileges have their principal place of
62 business. Indeed, a firm complying with Section 7(a)(1)(C) would only have to obtain permits in
63 states where it has offices.

64
65 In the interest of obtaining maximum uniformity and interstate mobility, and assuring that CPAs
66 are subject to only one type of regulatory scheme, the Uniform Act should be the standard of
67 regulation for certificate holders in the U.S. and its jurisdictions. All states and jurisdictions
68 should seek to adopt the Uniform Act to provide uniformity in accountancy regulation.
69 Uniformity will become even more essential in the future as international trade agreements
70 continue to be adopted causing the accounting profession to adopt a global focus.

71
72 *****
73

74 **UAA Section 3**
75 **Definitions**

76
77 **When used in this Act, the following terms have the meanings indicated:**

- 78
79 (a) **"AICPA" means the American Institute of Certified Public Accountants.**
80
81 (b) **"Attest" means providing the following ~~financial statement~~ services:**
82
83 (1) **any audit or other engagement to be performed in accordance with the**
84 **Statements on Auditing Standards (SAS);**
85
86 (2) **any review of a financial statement to be performed in accordance with the**
87 **Statements on Standards for Accounting and Review Services (SSARS);**
88
89 (3) **any examination of prospective financial information to be performed in**
90 **accordance with the Statements on Standards for Attestation Engagements**
91 **(SSAE); and**
92

93 (4) any engagement to be performed in accordance with the standards of the
94 PCAOB; and

95
96 (5) any examination, review, or agreed upon procedures engagement to be
97 performed in accordance with the SSAE, other than an examination described
98 in subsection (3).
99

100 The standards specified in this definition shall be adopted by reference by the Board
101 pursuant to rulemaking and shall be those developed for general application by
102 recognized national accountancy organizations, such as the AICPA and the
103 PCAOB.
104

105 *COMMENT:* Subject to the exceptions set out in ~~Section~~ Sections 7, 14, and 23(a)(4), these
106 services are restricted to licensees and CPA firms under the Act, and licensees can only perform
107 the attest services through a CPA firm. Individual licensees may perform the services described
108 in Section 3(f) as employees of firms that do not hold a permit under Section 7 of this Act, so
109 long as they comply with the peer review requirements of Section 6(j). Other ~~attestation~~
110 professional services are not restricted to licensees or CPA firms; however, when licensees
111 perform those services they are regulated by the state board of accountancy. See also the
112 definition of Report. The definition also includes references to the Public Company Accounting
113 Oversight Board (PCAOB) which make it clear that the PCAOB is a regulatory authority that
114 sets professional standards applicable to engagements within its jurisdiction.

115 Regarding SSAE engagements, subsections 3(b)(3) and (5) ~~only includes~~ include SSAE
116 engagements pertaining to the examination of prospective financial information, ~~while~~
117 ~~subsection 3(b)(5) expressly includes~~ as well as other SSAE engagements. Thus, like other
118 services included in this definition of "Attest," they are all restricted to licensees and CPA firms.
119 Although these respective services have been bifurcated in the definition of "Attest," only CPAs
120 can provide the services, and they must do so only through firms that either have a permit or
121 comply with Section 7(a)(1)(C).

122 ~~However, Sections 7, 14 and 23 also mandate that certain types of "Attest" services must be~~
123 ~~rendered only through licensed CPA Firms. Specifically, Section 7(a)(1)(C) requires licensure of~~
124 ~~an out-of-state firm even if it does "not have an office in this state but performs attest services~~
125 ~~described in Section 3(b)(1), (3) or (4) of this Act for a client having its home office in this 5~~
126 ~~state."~~

127 ~~By identifying the other SSAE services (that is, other services but not "examinations of~~
128 ~~prospective financial information") in a different subsection (5), they, along with the services~~
129 ~~described in subsections 3(b)(2) (reviews of financial statements according to SSARS), are~~
130 ~~"Attest" services restricted to CPAs, but out-of-state CPA Firms rendering these services do not~~
131 ~~have to obtain a permit in every state in which they provide that type of Attest service. Hence,~~
132 ~~although both 3(b)(3) and 3(b)(5) SSAE services are "Attest" services, only those SSAE services~~
133 ~~included in 3(b)(3) must be rendered through CPA Firms licensed in every state in which the~~
134 ~~services are provided. The differentiation between these two categories of SSAE services~~

135 ~~therefore reduces the burden of multistate licensure and enhances mobility for individual~~
136 ~~licensees as well as CPA Firms.~~

137 This definition of "attest" includes both examinations of prospective financial information to be
138 performed in accordance with the Statements on Standards for Attestation Engagements (SSAE)
139 as well as "any examination, review, or agreed upon procedures engagement, to be performed in
140 accordance with SSAE."

141
142 ***

143
144 ~~(h) "Home office" is the location specified by the client as the address to which a service~~
145 ~~described in Section 23(a)(4) is directed.~~

146
147 ~~Comment: Under this provision, as a practical matter, a firm must have a permit in the state~~
148 ~~specified by the client for Section 23(a)(4) services. Thus, for example, the client may specify~~
149 ~~that a Section 23(a)(4) service for a subpart or subsidiary of an entity be directed to the location~~
150 ~~of that subpart or subsidiary. It should also be remembered that, regardless of whether or not the~~
151 ~~firm has a permit in that state, under Section 23(a)(3), a state board has administrative~~
152 ~~jurisdiction over individual licensees as well as firms offering or rendering professional services~~
153 ~~in that state. It should also be noted that other terms such as "headquarters" and "principal place~~
154 ~~of business" were not used because of extant uses of both terms that might be confusing or defeat~~
155 ~~the purpose of the mobility revisions.~~

156
157
158 **(ih) "License" means a certificate issued under Section 6 of this Act, a permit issued**
159 **under Section 7 or a registration under Section 8; or, in each case, a certificate or**
160 **permit issued under corresponding provisions of prior law.**

161
162 *COMMENT:* See commentary to ~~section~~Section 3(ji) below.

163
164 **(ji) "Licensee" means the holder of a license as defined in Section 3(~~j~~)h).**

165
166 *COMMENT:* This term is intended simply to allow for briefer references in provisions that
167 apply to holders of certificates, holders of permits and holders of registrations. See ~~section~~
168 Section 4(h), regarding rules to be promulgated by the Board of Accountancy; ~~section~~Section
169 5(b), regarding the meaning of "good moral character" in relation to the professional
170 responsibility of a licensee; Sections 11(c) and (d), regarding Board investigations; Sections
171 12(a)-(c), (i), and (k), relating to hearings by the Board; ~~section~~Section 18, relating to
172 confidential communications; and Sections 19(a) and (b), regarding licensees' working papers
173 and clients' records. Pursuant to Section 14(p), individuals and firms using practice privileges in
174 this State are treated as "Licensees" for purposes of other requirements and restrictions in
175 Section 14.

176
177 ***
178 **(r) "Report," when used with reference to financial statements any attest or**

179 **compilation service, means an opinion, report, or other form of language that states**
180 **or implies assurance as to the reliability of ~~any~~the attested information or compiled**
181 **financial statements and that also includes or is accompanied by any statement or**
182 **implication that the person or firm issuing it has special knowledge or competence**
183 **in accounting or auditing. Such a statement or implication of special knowledge or**
184 **competence may arise from use by the issuer of the report of names or titles**
185 **indicating that the person or firm is an accountant or auditor, or from the language**
186 **of the report itself. The term “report” includes any form of language which**
187 **disclaims an opinion when such form of language is conventionally understood to**
188 **imply any positive assurance as to the reliability of the attested information or**
189 **compiled financial statements referred to and/or special competence on the part of**
190 **the person or firm issuing such language; and it includes any other form of language**
191 **that is conventionally understood to imply such assurance and/or such special**
192 **knowledge or competence.**

193
194
195 *COMMENT:* As has been explained in the introductory comments, the audit function, which this
196 term is intended to define, is the principal kind of professional accounting service for which a
197 license would be required under the Uniform Act. The term has its most important operative use
198 in ~~section~~Section 14(a) of the Act, which prohibits persons not licensed from performing that
199 function as well as any attest or compilation services as defined above.

200
201 It is a point of fundamental significance that the audit function is defined, not in terms of the
202 work actually done, but rather in terms of the issuance of an opinion or a report--that is, the
203 making of assertions, explicit or implied--about work that has been done. It is such reports, or
204 assertions, upon which persons using ~~financial statements~~attested information (whether clients
205 or third parties) rely, reliance being invited by the assertion, whether explicit or by implication,
206 of expertise on the part of the person or firm issuing the opinion or report. Thus, this definition is
207 sought to be drawn broadly enough to encompass all those cases where either the language of the
208 report itself, or other language accompanying the report, carries both a positive assurance
209 regarding the reliability of the ~~financial~~ information in question, and an implication (which may
210 be drawn from the language of the report itself) that the person or firm issuing the report has
211 special competence which gives substance to the assurance.

212
213 The definition includes disclaimers of opinion when they are phrased in a fashion which is
214 conventionally understood as implying some positive assurance because authoritative accounting
215 literature contemplates several circumstances in which a disclaimer of opinion in standard form
216 implies just such assurances. The same reasoning that makes it appropriate to include
217 disclaimers of opinion in conventional form within the definition of this term makes it
218 appropriate to apply the prohibition on the issuance by unlicensed persons of reports, as so
219 defined, on “reviews” and “compilations” and other communications with respect to
220 “compilations” within the meaning of the AICPA’s Statements on Standards for Accounting and
221 Review Services (SSARS), when the language in which the report or other compilation
222 communication is phrased is that prescribed by SSARS or any report that is prescribed by the
223 AICPA’s Statements on Standards for Attestation Engagements (SSAE). This is done in ~~section~~
224 Section 14(a). These prohibitions, again, do not apply to the services actually performed--which

225 is to say that there is no prohibition on the performance by unlicensed persons of either reviews
226 or compilations, in the sense contemplated by SSARS, but only on the issuance of reports or
227 other compilation communications asserting or implying that their author has complied or will
228 comply with the SSARS standards for such reviews and compilations and has the demonstrated
229 capabilities so to comply.

230 *****

231 **SECTION 7**

232 **FIRM PERMITS TO PRACTICE, ATTEST AND COMPILATION COMPETENCY,**
233 **AND PEER REVIEW**

234
235 (a) **The Board shall grant or renew permits to practice as a CPA firm to applicants that**
236 **demonstrate their qualifications therefor in accordance with this Section.**

237
238 (1) **The following must hold a permit issued under this Section:**

239
240 (A) **Any firm with an office in this state performing attest services as**
241 **defined in Section 3(b) of this Act; or**

242
243 (B) **Any firm with an office in this state that uses the title “CPA” or**
244 **“CPA firm”; or**

245
246 (C) **Any firm that does not have an office in this state but performs**
247 **offers or renders attest services as described in subsections Section**
248 **3(b)(2), 3(b)(5) or 3(f) of this Act for a client having its home office**
249 **in this state, unless it meets each of the** ~~— A firm which does not~~
250 ~~have an office in this state may perform services described in~~
251 ~~subsections 3(b)(2) or 3(f) for a client having its home office in this~~
252 ~~state and may use the title “CPA” or “CPA firm” without a permit~~
253 ~~issued under this Section only if: following requirements:~~

254
255 ~~(A) — it has~~(i) **it complies with the qualifications described in**
256 **Section 7(c);**

257
258 (ii) **it complies with the qualifications described in subsections**
259 **7(c) [ownership] and Section 7(h) [peer review], and;**

260
261 ~~(B) — it~~(iii) **it performs such services through an individual with**
262 **practice privileges under Section 23 of the this Act; and**

263
264 (iv) **it can lawfully do so in the state where said individuals with**
265 **practice privileges have their principal place of business.**

266
267 ~~(2) — A firm which does not have an office in this state may perform services~~
268 ~~described in subsections 3(b)(2) or 3(f) for a client having its home office in~~
269 ~~this state and may use the title “CPA” or “CPA firm” without a permit~~
270 ~~issued under this Section only if:~~

271
272 ~~(A) it has the qualifications described in subsections 7(c) [ownership] and~~
273 ~~7(h) [peer review], and~~

274
275 ~~(B) it performs such services through an individual with practice~~
276 ~~privileges under Section 23 of the Act.~~

277
278
279 (2) ~~(3)~~ A firm which is not subject to the requirements of Section 7(a)(1)~~(C)~~
280 ~~or 7(a)(2)~~ may perform services described in Section 3(f) and other nonattest
281 professional services while using the title “CPA” or “CPA firm” in this state
282 without a permit issued under this Section only if:

283
284 (A) it performs such services through an individual with practice
285 privileges under Section 23 of the Act; and

286
287 (B) it can lawfully do so in the state where said individuals with practice
288 privileges have their principal place of business.

289
290
291 *COMMENT:* This Uniform Act departs from the pattern of some accountancy laws now in
292 effect in eliminating any separate requirement for the registration of firms and of offices. The
293 information gathering and other functions accomplished by such registration should be equally
294 easily accomplished as part of the process of issuing firm permits under this section. The
295 difference is, again, one of form more than of substance but one that should be kept in mind if
296 consideration is given to fitting the permit provisions of this Uniform Act into an existing law.

297
298 As pointed out in the comment following ~~section~~ Section 3(g), above, because a CPA firm is
299 defined to include a sole proprietorship, the permits contemplated by this section would be
300 required of sole practitioners as well as larger practice entities. To avoid unnecessary duplication
301 of paperwork, a Board could, if it deemed appropriate, offer a joint application form for
302 certificates and sole practitioner firm permits.

303
304 This provision also makes it clear that firms with an office in this state may not provide attest
305 services as defined, or call themselves CPA firms without a license in this state. Certified Public
306 Accountants are not required to offer services to the public, other than attest services, through a
307 CPA firm. CPAs may offer non-attest services through any type of entity they choose, and there
308 are no requirements in terms of a certain percentage of CPA ownership for these types of entities
309 as long as they do not call themselves a “CPA firm” or use the term “CPA” in association with
310 the entity’s name. These non-CPA firms are not required to be licensed by the State Board.

311
312 Out-of-state firms without an office in this state may provide ~~attest~~ services other than those
313 described in ~~Section 23(a)(4)~~ Section 3(b) for a client ~~which has its home office~~ in this state and call
314 themselves CPA firms in this state without having a permit from this state, so long as they do so
315 through a licensee or individual with practice privileges, and so long as they are qualified to do
316 so under the requirements of Section 7(a)(2). ~~Depending on the services provided, and In~~

317 addition, if the firm ~~calls itself a CPA firm, such a firm is subject~~ is exempt from the permit
318 requirement pursuant to the requirements described in revised subsection 7(a)(2)(A) or
319 subsection 7(a)(3)(B), whichever is applicable. Section 7(a)(1)(C), no permit is required
320 regardless of the type of attest services or where the services are performed.

321
322 A firm that does not comply with ownership (Section 7(c)) and peer review (Section 7(h))
323 requirements must obtain a permit in a state before offering or rendering any attest service in that
324 state.

325
326 **(b) Permits shall be initially issued and renewed for periods of not more than three**
327 **years but in any event expiring on [specified date] following issuance or renewal.**
328 **Applications for permits shall be made in such form, and in the case of applications**
329 **for renewal, between such dates as the Board may by rule specify, and the Board**
330 **shall grant or deny any such application no later than _____ days after the**
331 **application is filed in proper form. In any case where the applicant seeks the**
332 **opportunity to show that issuance or renewal of a permit was mistakenly denied or**
333 **where the Board is not able to determine whether it should be granted or denied, the**
334 **Board may issue to the applicant a provisional permit, which shall expire ninety**
335 **days after its issuance or when the Board determines whether or not to issue or**
336 **renew the permit for which application was made, whichever shall first occur.**

337
338 *COMMENT:* See the comment following ~~section~~ Section 6(b) regarding the renewal period.

339
340
341 **(c) An applicant for initial issuance or renewal of a permit to practice under this**
342 **Section shall be required to show that:**

343
344 **(1) Notwithstanding any other provision of law, a simple majority of the**
345 **ownership of the firm, in terms of financial interests and voting rights of all**
346 **partners, officers, shareholders, members or managers, belongs to holders of**
347 **a certificate who are licensed in some state, and such partners, officers,**
348 **shareholders, members or managers, whose principal place of business is in**
349 **this state, and who perform professional services in this state hold a valid**
350 **certificate issued under Section 6 of this Act or the corresponding provision**
351 **of prior law or are public accountants registered under Section 8 of this Act.**
352 **Although firms may include non-licensee owners, the firm and its ownership**
353 **must comply with rules promulgated by the Board. For firms of public**
354 **accountants, at least a simple majority of the ownership of the firm, in terms**
355 **of financial interests and voting rights, must belong to holders of**
356 **registrations under Section 8 of this Act. An individual who has practice**
357 **privileges under Section 23 who performs services for which a firm permit is**
358 **required under Section 23(a)(4) shall not be required to obtain a certificate**
359 **from this state pursuant to Section 6 of this Act.**

360
361
362 *COMMENT:* The limitation of the requirement of certificates to partners, officers, shareholders,

363 members and managers who have their principal place of business in the state is intended to
364 allow some latitude for occasional visits and limited assignments within the state of firm
365 personnel who are based elsewhere. If those out-of-state individuals qualify for practice
366 privileges under Section 23 and do not have their principal places of business in this state, they
367 do not have to be licensed in this state. In addition, the requirement allows for non-licensure
368 ownership of licensed firms.

369
370 (2) Any CPA or PA firm as defined in this Act may include non-licensure owners
371 provided that:

372
373 (A) The firm designates a licensee of this state, or in the case of a firm
374 which must have a permit pursuant to Section 23(a)(4) a licensee of
375 another state who meets the requirements set out in Section 23(a)(1)
376 or in Section 23(a)(2), who is responsible for the proper registration
377 of the firm and identifies that individual to the Board.

378
379 (B) All non-licensure owners are of good moral character and active
380 individual participants in the CPA or PA firm or affiliated entities.

381
382 (C) The firm complies with such other requirements as the ~~board~~ Board
383 may impose by rule.

384
385 (3) Any individual licensee and any individual granted practice privileges under
386 this Act who is responsible for supervising attest or compilation services and
387 signs or authorizes someone to sign the accountant's report on ~~the financial~~
388 ~~statements on behalf~~ of the firm, shall meet the competency requirements set
389 out in the professional standards for such services.

390
391 (4) Any individual licensee and any individual granted practice privileges under
392 this Act who signs or authorizes someone to sign the accountants' report on
393 ~~the financial statements on behalf~~ of the firm shall meet the competency
394 requirement of the prior subsection.

395
396 *COMMENT:* Because of the greater sensitivity of attest and compilation services, professional
397 standards should set out an appropriate competency requirement for those who supervise them
398 and sign attest or compilation reports. However, the accountant's report in such engagements
399 may be supervised, or signed, or the signature authorized for the CPA firm by a practice
400 privileged individual.

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403
404 **SECTION 14**
405 **UNLAWFUL ACTS**

406
407 (a) Only licensees and individuals who have practice privileges under Section 23 of this
408 Act may issue a report on financial statements of any person, firm, organization, or

409 governmental unit or offer to render or render any attest or compilation service, as
410 defined herein. This restriction does not prohibit any act of a public official or
411 public employee in the performance of that person's duties as such; or prohibit the
412 performance by any non-licensee of other services involving the use of accounting
413 skills, including the preparation of tax returns, management advisory services, and
414 the preparation of financial statements without the issuance of reports thereon.
415 Non-licensees may prepare financial statements and issue non-attest transmittals or
416 information thereon which do not purport to be in compliance with the Statements
417 on Standards for Accounting and Review Services (SSARS).
418

419 *COMMENT:* This provision, giving application to the definition of attest in Section 3(b) and
420 report in section-Section 3(§r) above, is the cornerstone prohibition of the Uniform Act, reserving
421 the performance of those professional services calling upon the highest degree of professional
422 skill and having greatest consequence for persons using ~~financial statements attested~~
423 ~~information--namely, the audit function and other attest and compilation services as defined~~
424 ~~herein -- to licensees. It is so drafted as to make as clear and emphatic as possible the limited~~
425 ~~nature of this exclusively reserved function and the rights of unlicensed persons to perform all~~
426 ~~other functions. This wording addresses concerns that this exemption could otherwise, by~~
427 ~~negative implication, allow non-licensees to prepare any report on a financial statement other~~
428 ~~than a SSARS--i.e., other attestation standards.~~ Consistent with Section 23, individuals with
429 practice privileges may render these reserved professional services to the same extent as
430 licensees in this state.
431

432 This provision is also intended to extend the reservation of the audit function to other services
433 that also call for special skills and carry particular consequence for users of such other services
434 of financial statements attest information albeit in each respect to a lesser degree than the audit
435 ~~function--namely,~~ Thus, reserved services include the performance of compilations and reviews
436 of financial statements, in accordance with the AICPA's Statements on Standards for Accounting
437 and Review Services, which set out the standards to be met in a compilation or review and
438 specify the form of communication to management or report to be issued, ~~and~~ Also reserved to
439 licensees are attestation engagements performed in accordance with Statements on Standards for
440 Attestation Engagements which set forth the standards to be met and the reporting on the
441 engagements enumerated in the SSAEs. The subsection is intended to prevent issuance by non-
442 licensees of reports or communication to management using that standard language or language
443 deceptively similar to it. Safe harbor language which may be used by non-licensees is set out in
444 Model Rule 14-2.
445

446 (b) **Licensees and individuals who have practice privileges under Section 23 of this Act**
447 **performing attest or compilation services must provide those services in accordance**
448 **with applicable professional standards.**
449

450 (c) **No person not holding a valid certificate or a practice privilege pursuant to Section**
451 **23 of this Act shall use or assume the title "certified public accountant," or the**
452 **abbreviation "CPA" or any other title, designation, words, letters, abbreviation,**
453 **sign, card, or device tending to indicate that such person is a certified public**
454 **accountant.**

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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~~ Section 6.

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(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.

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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.

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(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.

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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~~ Section 8.

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(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.

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

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(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.

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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, ~~and~~ compilations and reports issued under the 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

545 Firm, this language should be considered in conjunction with Rules 14-1(c) and (d), which
546 provide further clarity and guidance.

547
548 **(j) None of the foregoing provisions of this Section shall have any application to a**
549 **person or firm holding a certification, designation, degree, or license granted in a**
550 **foreign country entitling the holder thereof to engage in the practice of public**
551 **accountancy or its equivalent in such country, whose activities in this State are**
552 **limited to the provision of professional services to persons or firms who are**
553 **residents of, governments of, or business entities of the country in which the person**
554 **holds such entitlement, who performs no attest or compilation services as defined in**
555 **this Act and who issues no reports as defined in this Act with respect to ~~the financial~~**
556 **~~statements~~ information of any other persons, firms, or governmental units in this**
557 **State, and who does not use in this State any title or designation other than the one**
558 **under which the person practices in such country, followed by a translation of such**
559 **title or designation into the English language, if it is in a different language, and by**
560 **the name of such country.**

561
562 *COMMENT:* The right spelled out in this provision, of foreign licensees to provide services in
563 the state to foreign-based clients, looking to the issuance of reports only in foreign countries, is
564 essentially what foreign licensees have a right to do under most laws now in effect, simply
565 because no provision in those laws restricts such a right. The foreign titles used by foreign
566 licensees might otherwise run afoul of standard prohibitions with respect to titles (such as one on
567 titles misleadingly similar to “CPA”), but this provision would grant a dispensation not found in
568 most laws now in force.

569
570 **(k) No holder of a certificate issued under Section 6 of this Act or a registration issued**
571 **under Section 8 of this Act shall perform attest services through any business form**
572 **that does not hold a valid permit issued under Section 7 of this Act.**

573
574 *COMMENT:* See the comments following Sections 6(a), 7(a), and 8.

575
576 **(l) No individual licensee shall issue a report in standard form upon a compilation of**
577 **financial information through any form of business that does not hold a valid permit**
578 **issued under Section 7 of this Act unless the report discloses the name of the**
579 **business through which the individual is issuing the report, and the individual:**

- 580
581 **(1) signs the compilation report identifying the individual as a CPA or PA,**
582
583 **(2) meets the competency requirement provided in applicable standards, and**
584
585 **(3) undergoes no less frequently than once every three years, a peer review**
586 **conducted in such manner as the Board shall by rule specify, and such**
587 **review shall include verification that such individual has met the competency**
588 **requirements set out in professional standards for such services.**

589
590 **(m) Nothing herein shall prohibit a practicing attorney or firm of attorneys from**

591 preparing or presenting records or documents customarily prepared by an attorney
592 or firm of attorneys in connection with the attorney's professional work in the
593 practice of law.

594
595 (n)(1) A licensee shall not for a commission recommend or refer to a client any product or
596 service, or for a commission recommend or refer any product or service to be
597 supplied by a client, or receive a commission, when the licensee also performs for
598 that client,

599
600 (A) an audit or review of a financial statement; or

601
602 (B) a compilation of a financial statement when the licensee expects, or
603 reasonably might expect, that a third party will use the financial statement
604 and the licensee's compilation report does not disclose a lack of
605 independence; or

606
607 (C) an examination of prospective financial information

608
609 This prohibition applies during the period in which the licensee is engaged to perform
610 any of the services listed above and the period covered by any historical financial
611 statements involved in such listed services.

612 (2) A licensee who is not prohibited by this section from performing services for or
613 receiving a commission and who is paid or expects to be paid a commission shall
614 disclose that fact to any person or entity to whom the licensee recommends or refers
615 a product or service to which the commission relates.

616
617 (3) Any licensee who accepts a referral fee for recommending or referring any service
618 of a licensee to any person or entity or who pays a referral fee to obtain a client shall
619 disclose such acceptance or payment to the client.

620
621 (o)(1) A licensee shall not:

622
623 (A) perform for a contingent fee any professional services for, or receive such a
624 fee from a client for whom the licensee or the licensee's firm performs,

625
626 (i) an audit or review of a financial statement; or

627
628 (ii) a compilation of a financial statement when the licensee expects, or
629 reasonably might expect, that a third party will use the financial
630 statement and the licensee's compilation report does not disclose a
631 lack of independence; or

632
633 (iii) an examination of prospective financial information.; or

634
635 (B) Prepare an original or amended tax return or claim for a tax refund for a

636 contingent fee for any client.

637
638 (2) The prohibition in (1) above applies during the period in which the licensee is
639 engaged to perform any of the services listed above and the period covered by any
640 historical financial statements involved in any such listed services.

641
642 (3) Except as stated in the next sentence, a contingent fee is a fee established for the
643 performance of any service pursuant to an arrangement in which no fee will be
644 charged unless a specified finding or result is attained, or in which the amount of
645 the fee is otherwise dependent upon the finding or result of such service. Solely for
646 purposes of this section, fees are not regarded as being contingent if fixed by courts
647 or other public authorities, or, in tax matters, if determined based on the results of
648 judicial proceedings or the findings of governmental agencies. A licensee's fees may
649 vary depending, for example, on the complexity of services rendered.

650
651 *COMMENT:* Section 14(n) on commissions is based on Rule 503 of the AICPA Code of
652 Professional Conduct. Section 14(o) on contingent fees is based on Rule 302 of the AICPA
653 Code of Professional Conduct.

654
655
656 (p) Notwithstanding anything to the contrary in this Section, it shall not be a violation
657 of this Section for a firm which does not hold a valid permit under Section 7 of this
658 Act and which does not have an office in this state to use the title "CPA" or
659 "Certified Public Accountants" as a part of the firm's name and to provide its
660 professional services in this state, and licensees and individuals with practice
661 privileges may provide services on behalf of such firms so long as ~~if~~ the firm
662 complies with the requirements of Section 7(a)(1)(C) or Section 7(a)(2) or 7(a)(3),
663 whichever is applicable. An individual or firm authorized under this provision to
664 use practice privileges in this state shall comply with the requirements otherwise
665 applicable to licensees in Section 14 of this Act.

666
667 *COMMENT:* Section 14(p) has been added along with revisions to Sections 23 and 7, to provide
668 that as long as an out-of-state firm complies with the requirements of ~~new~~ Section 7(a)(~~2~~1)(C) or
669 7(a)(~~3~~2), whichever is applicable, it can do so through practice privileged individuals without a
670 CPA firm permit from this state. The addition of the last sentence of this Section 14(p) makes
671 certain other provisions of Section 14 that otherwise pertain only to "licensees" (specifically,
672 Sections 14 (h), (k), (l), (n), and (o)) directly applicable to individuals and firms which are
673 exempt from licensing or permit requirements in this state.

674
675 *****

676
677 **SECTION 23**
678 **SUBSTANTIAL EQUIVALENCY**

679
680 ***

682 (a) (4) An individual who has been granted practice privileges under this section
683 who, ~~for any entity with its home office in this state,~~ performs any of the
684 following services;

685
686 ~~(A) any financial statement audit or other engagement to be performed in~~
687 ~~accordance with Statements on Auditing Standards;~~

688
689 ~~(B) any examination of prospective financial information to be performed~~
690 ~~in accordance with Statements on Standards for Attestation~~
691 ~~Engagements; or~~

692
693 ~~(C) any engagement to be performed in accordance with PCAOB~~
694 ~~auditing standards;~~

695
696 ~~May attest service described in Section 3(b) may only do so through a firm which meets the~~
697 ~~requirements of Section 7(a)(1)(C) or which has obtained a permit issued~~
698 ~~under Section 7 of this Act.~~

699
700 *COMMENT:* Subsection 23(a)(3) is intended to allow state boards to discipline licensees from
701 other states that practice in their state. If an individual licensee is using these practice privileges
702 to offer or render professional services in this state on behalf of a firm, Section 23(a)(3) also
703 facilitates state board jurisdiction over the firm as well as the individual licensee even if the firm
704 is not required to obtain a permit in this state. Under Section 23(a), State Boards could utilize the
705 NASBA National Qualification Appraisal Service for determining whether another state’s
706 certification criteria are “substantially equivalent” to the national standard outlined in the
707 AICPA/NASBA Uniform Accountancy Act. If a state is determined to be “substantially
708 equivalent,” then individuals from that state would have ease of practice ~~rights-privileges~~ in other
709 states. Individuals who personally meet the substantial equivalency standard may also apply to
710 the National Qualification Appraisal Service if the state in which they are licensed is not
711 substantially equivalent to the UAA.

712
713 Individual CPAs who practice across state lines or who service clients in another state via
714 electronic technology would not be required to obtain a reciprocal certificate or license if their
715 state of original certification is deemed substantially equivalent, or if they are individually
716 deemed substantially equivalent. However, licensure is required in the state where the CPA has
717 their principal place of business. If a CPA relocates to another state and establishes their
718 principal place of business in that state or if a firm performs any of the services described in
719 Section 23(a)(4) and does not qualify for exemption under Section 7(a)(1)(C), then they would
720 be required to obtain a license certificate in that state. ~~As a result of the elimination of any~~
721 ~~notification requirement combined with the automatic jurisdiction over any firm that has~~
722 ~~employees utilizing practice privileges in the state, former subsections 7(i) and 7(j) have been~~
723 ~~deleted.~~

724
725 ~~Unlike prior versions of this Section, the revised~~ The provision provides that practice privileges
726 shall be granted and that there shall be no notification. With the strong addition of a stronger
727 Consent requirement (subsection 23(a)(3)), (i) there appears to be no need for individual

728 notification_ since the nature of an enforcement complaint would in any event require the
729 identification of the CPA, (ii) online licensee databases have greatly improved, and (iii) both the
730 individual CPA practicing on the basis of substantial equivalency as well as the individual's
731 employer will be subject to enforcement action in any state under Section 23(a)(3) regardless of
732 a notification requirement.

733
734 Implementation of the "substantial equivalency" standard and creation of the National
735 Qualification Appraisal Service have made a significant improvement in the current regulatory
736 system and assist in accomplishing the goal of portability of the CPA title and mobility of CPAs
737 across state lines.

738
739 Section 23(a)(4) clarifies situations in which the individual could be required to provide services
740 through a CPA firm holding a permit issued by the state in which the individual is using practice
741 privileges in providing attest services.

742
743 Section 23(a)(4) in conjunction with companion revisions to Sections 3, 7 and 14, ~~still provide~~
744 ~~that an enhanced firm mobility by allowing the individual with to use practice privileges cannot~~
745 ~~do the following as an employee of in providing attest services through a firm unless the firm~~
746 ~~holds with a CPA firm permit from this any state:~~

747 • ~~perform an examination of prospective financial information in accordance so long as the~~
748 ~~firm complies with SSAE for any entity with its home the ownership and peer review~~
749 ~~requirements. Such firms would only need to obtain permits from states in which they~~
750 ~~have an office. in this state~~
751 ~~perform an engagement. The types of attest services and where the services are performed~~
752 ~~would not matter. Any firm that does not satisfy both requirements (ownership and peer review)~~
753 ~~would have to obtain a permit in accordance with PCAOB standards for any entity with its home~~
754 ~~office the state in this state which the firm is providing attest services.~~

755 • ~~perform an audit or other engagement in accordance with SAS for any entity with its~~
756 ~~home office in this state~~

757 In order to be deemed substantially equivalent under Section 23(a)(1), a state must adopt the
758 150-hour education requirement established in Section 5(c)(2). A few states have not yet
759 implemented the education provision. In order to allow a reasonable transition period, Section
760 23(a)(2) provides that an individual who has passed the Uniform CPA examination and holds an
761 active license from a state that is not yet substantially equivalent may be individually exempt
762 from the 150-hour education requirement and may be allowed to use practice privileges in this
763 state if the individual was licensed prior to January 1, 2012.

764
765 Section 23(a)(3)(D) simplifies state board enforcement against out-of-state persons using
766 practice privileges by requiring consent to appointment of the state board of the person's
767 principal place of business for service of process. This important provision facilitates the
768 prerogative of the state board to administratively discipline or revoke the practice privilege. This
769 provision supplements Section 9, which provides for the appointment of the Secretary of State as
770 the agent upon whom process may be served in any action or proceeding against the applicant
771 arising out of any transaction or operation connected with or incidental to services performed by
772 the applicant while a licensee within this State.

773 *****