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SHORT TITLE: Professions and occupations; creating Oklahoma
Accounting Practitioner Oversight Act; codification;
noncodification; effective date.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 1011

By: Brown

AS INTRODUCED

An Act relating to professions and occupations;
amending Section 2, Chapter 272, O.S.L. 1992 (59
O.S. Supp. 1993, Section 15.1A), which relates to
definitions; creating the Oklahoma Accounting
Practitioner Oversight Act; providing short title;
stating purpose; defining terms; creating the
Accounting Practitioner Committee; stating
responsibilities; requiring authorization to
provide certain accounting services; providing for
Committee membership, qualifications, appointment,
terms of office, removal, officers, meetings,
quorum, procedures and reimbursement; establishing
powers and duties of Committee and Oklahoma
Accountancy Board; providing for confidentiality;
creating revolving fund and establishing Committee
fiscal procedures and limitations; specifying
qualifications and related procedures for becoming
an accounting practitioner and taking examination;
defining term; requiring examinations and providing
procedures; allowing certain persons to qualify as
accounting practitioners without examination;
providing procedures for granting authorization to
be accounting practitioner by reciprocity;
establishing scope of authorization to be
accounting practitioner; stating requirements for
and limitations on individuals and firms providing

accounting services to the public; establishing renewal of authorization procedures for individuals and firms; specifying grounds for disciplinary actions; prohibiting certain actions and providing penalties; providing conditions for reinstatement; setting quality review procedures; requiring continuing professional education; allowing individuals and firms to provide certain limited services without authorization; requiring certain information and providing for certain complaints; providing for fees; providing for preliminary funding of Committee activities; providing for codification; providing for noncodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.50 of Title 59, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 27 of this act shall be known and may be cited as the "Oklahoma Accounting Practitioner Oversight Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.51 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Legislature hereby declares that small businesses are a major element of the economic picture in this state. Because there is a need to protect small business entities which have limited accounting service needs, the state has a responsibility to regulate all individuals offering accounting services to ensure the

professional competence within the limited scope of accounting services needed by such small business entities.

B. The Legislature further declares that:

1. Public accounting encompasses accounting, auditing, data processing design, maintenance, computer services and software installation, business management services, advisory services, and taxation advice and preparation services;

2. A profession which encompasses such an expansive variety of business-related services should find individuals with a variety of experience and education wanting to provide any of these services to the citizens of this state from a number of sources;

3. Competition within the marketplace to provide whatever public accounting services a citizen of this state might want is healthy for the economy of this state;

4. The maintenance of standards to ensure public confidence in the integrity of any individual providing any accounting services to the citizens of this state is of utmost importance; and

5. Legislation regarding the accounting profession should regulate and control the services offered or performed by all members of the accounting profession for the protection of the public, and provide suitable descriptive titles clearly reflecting the accounting services being offered or performed.

C. In order to implement the declarations of public policy of this state the Oklahoma Accounting Practitioner Oversight Act is hereby adopted.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.52 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. All definitions in Section 15.1A of Title 59 of the Oklahoma Statutes, contained in the Oklahoma Accountancy Act, shall be applicable to the provisions of the Oklahoma Accounting Practitioner Oversight Act.

B. In addition to the definitions in the Oklahoma Accountancy Act, as used in the Oklahoma Accounting Practitioner Oversight Act:

1. "Accounting practitioner" means any individual who is qualified pursuant to the provisions of the Oklahoma Accounting Practitioner Oversight Act to provide accounting services to the public. An accounting practitioner is authorized to issue any accounting report, including but not limited to reports such as compilations or cash flow reports, process, function, or service. Provided, an accounting practitioner shall not issue an audited financial report or any other type of statement that uses the terms "audit", "audited", "review", or "reviewed", nor the language "in accordance with standards established by the American Institute of Certified Public Accountants" or its successor, unless such term or language is used in the negative clearly indicating that the term or language does not apply to the document presented;

2. "A.P." means an accounting practitioner;

3. "Accounting services" means bookkeeping services, tax preparation services, except as provided in Section 26 of the Oklahoma Accounting Practitioner Oversight Act, compilations of financial statements and services which provide advice or technical assistance to a member of the public where the primary purpose is to help improve the operation, profitability or product line of a business, or to assist in the assessment of the advisability of acquisition of all or part of a business;

4. "Authorization" and "authority" mean the commission from the Oklahoma Accountancy Board to provide accounting services as an accounting practitioner;

5. "Board" means the Oklahoma Accountancy Board;

6. "Bookkeeping services" means the process of recording financial transactions in accordance with a specific system for the purpose of providing a means by which those transactions may be recorded in an orderly manner;

7. "Committee" means the Accounting Practitioner Committee; and

8. "Tax return preparation services" means the process of collecting data and using that data to prepare federal and state income tax returns.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.53 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Accounting Practitioner Committee which shall have the responsibility of advising the Oklahoma Accountancy Board for action regarding the regulation of the authorization to provide accounting services pursuant to the Oklahoma Accounting Practitioner Oversight Act and the implementation of the provisions of the Oklahoma Accounting Practitioner Oversight Act.

B. On and after January 1, 1995, anyone offering accounting services to the public except for tax return preparers as provided in Section 26 of the Oklahoma Accounting Practitioner Oversight Act, shall be certified, licensed, or authorized to provide accounting services pursuant to the provisions of the Oklahoma Accountancy Act and the Oklahoma Accounting Practitioner Oversight Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.54 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Accounting Practitioner Committee shall consist of five (5) members, who shall be appointed by the Governor and confirmed by the Senate.

B. Four of the five appointees shall have practiced as an accounting practitioner for not less than three (3) years in this state prior to appointment.

1. The term of office for the accounting practitioner members of the Committee shall be for four (4) years.

2. A list of three or more individuals qualified to serve as an accounting practitioner member of the Committee may be compiled and submitted by the Oklahoma Society of Public Accountants or its successor to the Governor for use in making the appointment to each vacant position on the Committee.

3. The initial term for the accounting practitioner members of the Accounting Practitioner Committee appointments shall be:

- a. one (1) member shall be appointed to serve for one (1) year,
- b. one (1) member shall be appointed to serve for two (2) years,
- c. one (1) member shall be appointed to serve for three (3) years, and
- d. one (1) member shall be appointed to serve for four (4) years.

C. One (1) of the five (5) appointees shall be a public member who is not an accounting practitioner, public accountant, or certified public accountant, or the spouse of an accounting practitioner, public accountant, or certified public accountant. The term of the lay member shall be coterminous with the Governor.

D. The requirement for practice as an accounting practitioner for not less than three (3) years shall not apply to the initial appointees. All of the initial appointees, except the public member, shall provide documentation to the Governor prior to appointment that the prospective appointee possesses all the qualifications necessary to enable that prospective appointee to become an accounting practitioner.

E. The Committee members shall receive no compensation for service on the Committee, but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties in accordance with the provisions of the State Travel Reimbursement Act.

F. Upon the expiration of the term of office, a member may continue to serve until a successor has been appointed.

G. Vacancies on the Committee occurring during a term shall be filled by the Governor for the unexpired portion of the term in the same manner as provided for regular appointments to the Committee.

H. After the appointment and confirmation of the initial Committee members, individuals appointed to the Committee shall assume office and begin service on the Committee immediately unless confirmation is denied by the Senate.

1. Any actions taken by an appointed member prior to action on confirmation by the Senate shall not be subject to question as to the authority to so act.

2. Any action taken by a member after confirmation by the Senate has been denied shall be void and of no effect.

I. A member of the Committee shall become disqualified from serving if that member:

1. Is an accounting practitioner who is no longer authorized to provide accounting services;

2. Is a member who has moved from this state;

3. Has been convicted of, or pled guilty or nolo contendere to, a felony pursuant to the laws of the United States, the District of Columbia, or any state or territory of the United States; or

4. Has been absent from three (3) meetings, or absent for more than half of each of three (3) meetings as determined by the Committee during any twelve-month period, unless such absence is determined to be unavoidable in the opinion of a majority of the remaining Committee members. Action by the Committee on the absence of any member from a meeting shall be recorded in the official minutes of the Committee.

J. Removal due to disqualification pursuant to the provisions of this section shall be accomplished by a majority vote of the remaining members of the Committee.

1. Written notification of the vote shall be transmitted to the removed member, the Board, and the Governor.

2. Upon receipt of the written notification, the Governor shall appoint another member to fill the vacancy created by the removal in the regular manner provided for appointments to the Committee.

K. The Governor may, after a hearing conducted in accordance with the provisions of Article II of the Administrative Procedures Act, remove any member of the Committee for misconduct, incompetency, or neglect of duty. Removal pursuant to the provisions of this subsection shall be accomplished upon the Governor filing a written statement of findings after the hearing as to the reasons and basis for removal of the member with the chairman of the Committee and the secretary of the Board.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.55 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Committee shall meet at least annually and at such times and at places as set by the Committee. The Committee shall meet at the call of the chair, or upon the written call of at least three (3) Committee members.

B. Notice and conduct of all meetings of the Committee shall be in accordance with the provisions of the Oklahoma Open Meeting Act.

C. Annually, the Committee shall elect a chair, vice-chair, secretary and such other officers as deemed necessary by the Committee from its membership.

1. The chair shall preside at all meetings, appoint subcommittees, sign all recommendations from the Committee to the Oklahoma Accountancy Board, and when requested by the Board or deemed necessary by the Committee, represent the Committee at meetings of the Board. The chair shall not be required to attend every meeting of the Board.

2. In the event of the inability of the chair to perform the duties of that office, the vice-chair shall perform the duties of chair.

3. The secretary shall supervise the preparation and maintenance of all minutes and other official records of the Committee and for the transmission of all written communications from the Committee to the Board or the Governor.

4. The duties of any other officers elected or subcommittees established by the Committee shall be prescribed by the Committee.

D. Official actions by the Committee shall require a majority vote of the members present. A quorum to conduct official business shall be three (3) members.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.56 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In order to be able to make recommendations for implementation of the Oklahoma Accounting Practitioner Oversight Act to the Board, the Committee shall have the following powers and duties:

1. Maintain all records regarding accounting practitioners;
2. Employ, fix, and pay the salaries or fees of such individuals as deemed necessary whether full-time, part-time or temporary, including but not limited to a supervisor who shall serve as the chief administrative officer of the Committee, secretarial and clerical assistance, investigators, prosecutors, legal counsel, and expert witnesses to assist the Committee in the performance of their duties pursuant to the provisions of the Oklahoma Accounting Practitioner Oversight Act;
3. Lease office space facilities and pay all costs relative to such facilities including furniture, mechanical equipment, and supplies;

4. Prepare and maintain all budgets, records, and other information required by law as if the Committee were an independent agency;

5. Be responsible for providing to the Board copies of the written documents for each member and the Executive Director of the Board relaying information concerning actions to be taken. The original of all such documents shall be retained by the Committee as a part of its permanent records;

6. Provide the Board with a schedule of meetings and hearings and make minutes of meetings and any other information regarding the activities of the Committee available to the Board upon request from the Executive Director of the Board;

7. Advise and make recommendations to the Board on all matters affecting the Oklahoma Accounting Practitioner Oversight Act;

8. Keep informed on contemplated actions affecting accounting practitioners;

9. Have access to the files of the Board for the purpose of carrying out its advisory duties;

10. Investigate, obtain information and evidence, and conduct hearings on any alleged violation of the Oklahoma Accounting Practitioner Oversight Act upon receipt of any complaint filed with the Board or Committee;

11. Pass upon the qualifications of any individual to be an accounting practitioner or for a firm to provide accounting services to the public;

12. Work to upgrade the quality of accounting services provided by such measures as the Committee deems proper when in the best interest of the public;

13. Adopt rules for the administration and enforcement of the Oklahoma Accounting Practitioner Oversight Act which shall include but not be limited to:

- a. rules governing the Committee meetings and the conduct of Committee business,
- b. rules of procedure governing the receipt of complaints, conduct of investigations and the conduct of hearings,
- c. rules specifying the educational and experience qualifications required for an individual or firm to provide accounting services to the public,
- d. rules of procedure concerning the selection, administration, grading of examinations administered, and required passing grades,
- e. rules of professional conduct directed to controlling the quality of accounting services offered to the public concerning independence, integrity, objectivity, competence, technical standards, and responsibilities to the public as reflected in the standards of Generally Accepted Tax Accounting Principles (GATAP) as promulgated by the National Society of Public Accountants or its successor,
- f. rules regarding quality reviews of the work product of accounting practitioners,
- g. rules regarding standards for courses and for providing records of completion, exemptions and waivers of continuing professional education requirements,
- h. rules governing the manner and circumstances of use of the titles and representations as to competence to provide accounting services to the public,
- i. rules for the reduction or waiver of annual authorization fees for individuals who have retired from actively providing accounting services, who have reached the age of sixty-five (65), or who have become

disabled to a degree precluding the continuance of providing accounting services for at least six (6) months prior to July 1, and

- j. such other rules as deemed necessary or appropriate for implementing the provisions and the purposes of the Oklahoma Accounting Practitioner Oversight Act; and

14. Take such actions as are necessary and proper to effectuate the purposes of the Oklahoma Accounting Practitioner Oversight Act.

B. As a committee of the Board, the Committee is not an independent entity and therefore is without authority to:

1. Issue subpoenas or compel witnesses to testify;
2. Sue or be sued in its own name;
3. Deny, revoke or suspend the authority to provide accounting services; and
4. Impose civil penalties.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.57 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board shall have the following powers and duties regarding the implementation of the Oklahoma Accounting Practitioner Oversight Act:

1. Receive and take action on all recommendations submitted by the Committee. It shall require a three-fourths (3/4) vote of the total membership of the Board to disapprove or reject a Committee recommendation;

2. Upon written recommendation by the Committee, the Chairman of the Board shall issue subpoenas, compel attendance at Committee meetings or hearings, and perform such other procedures in accordance with the Administrative Procedures Act as needed by the Committee in the performance of their duties, unless such request is

rejected by a vote of the Board as provided in paragraph 1 of this section; and

3. Request the Attorney General to represent the Committee at all hearings conducted by or on behalf of the Committee.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.58 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Committee shall keep confidential all information obtained during an investigation into allegations of violations of the Oklahoma Accounting Practitioner Oversight Act to the same degree and subject to the same provisions and conditions imposed on the Board and its employees, independent contractors, appointed committee members, or other agents, as provided in Section 15.6A of Title 59 of the Oklahoma Statutes. For purposes of confidentiality of certain records and information obtained by the Committee, its employees, independent contractors, appointed subcommittee members, or other agents of the Committee shall be classified as employees and agents of the Board.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.59 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Accounting Practitioner Committee to be designated the "Accounting Practitioner Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all fees and any other monies, except for the fines imposed by the Oklahoma Accountancy Board, received by the Committee pursuant to the provisions of the Oklahoma Accounting Practitioner Oversight Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Committee for effectuating the purposes of the Oklahoma Accounting Practitioner Oversight Act. Expenditures from said fund shall be

made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. After the close of each fiscal year, the Committee shall file with the Board and the Governor a record of all fees charged, collected, and received and all disbursements made during the previous fiscal year.

C. The Board shall pay into the General Revenue Fund of the state ten percent (10%) of all fees collected, and no other portion shall ever revert to the General Revenue Fund or any other fund of this state.

D. All salaries, fees and other expenses incurred by the Committee in the performance of the duties imposed by the provisions of the Oklahoma Accounting Practitioner Oversight Act shall be paid from the Accounting Practitioner Revolving Fund, and none of the expenses shall ever be charged against the General Revenue Fund of this state.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.60 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board, upon payment of the appropriate fees and the recommendation of the Committee, shall grant any individual the authority to provide accounting services who is of good character and meets the specific education, experience, and examination requirements of the Oklahoma Accounting Practitioner Oversight Act.

B. For purposes of this section, "good character" means that an individual does not have a history of dishonest acts as demonstrated by documented evidence in such form as the Committee may specify and has not been convicted of, or pled guilty or nolo contendere to, a felony charge.

1. The Board, upon recommendation of the Committee, may refuse to grant the authority to provide accounting services for failure to

satisfy this requirement of good character if the finding by the Committee of lack of good character is supported by clear and convincing evidence.

2. Written notification specifying any grounds for denial of authorization to be an accounting practitioner based on failure to meet the good character criteria shall be provided to the individual being denied such authorization.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.61 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In order to take the examination to become an accounting practitioner, an individual shall:

1. Have a high school diploma and two (2) or more years of experience working under the direction of an accounting practitioner, public accountant, or certified public accountant as the principal occupation of the individual seeking to take the examination; or

2. Have an associate degree conferred by an accredited college or university or vocational-technical school acceptable to the Committee or at least a baccalaureate degree conferred by an accredited four-year college or university acceptable to the Committee with at least sixteen (16) semester hours in accounting.

B. Individuals who have completed at least a baccalaureate degree conferred by an accredited four-year college or university acceptable to the Committee with at least twenty-four (24) hours in accounting shall not be required to take an examination in order to be authorized to provide accounting services as an accounting practitioner.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.62 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. At least once each calendar year, the Committee shall hold a written examination for individuals seeking to obtain authorization to provide accounting services as an accounting practitioner.

1. Additional examinations may be held at such times and places as the Committee may deem advisable.

2. Notice of the date, time of day, and place of each examination shall be given by publication in the manner and form as set by the Committee.

B. Each individual seeking to take the examination shall file a written application in the office of the Committee.

1. The application must be received by the Committee not less than sixty (60) days prior to the day on which the examination is to commence.

2. The application fee shall be paid at the time the application is filed with the Committee.

C. The Committee may make use of the Accounting Practitioner Examination and the grading services offered by the Accreditation Council for Accountancy and Taxation or its successor and may contract with third parties to perform such administrative services with respect to the examination as it deems appropriate.

D. The Committee shall take any action necessary to ensure the confidentiality of test contents prior to being administered and the confidentiality of test results.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.63 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. An individual seeking authorization to provide accounting services as an accounting practitioner shall be required to pass all sections of the examination.

B. If at a given sitting of the examination an applicant passes at least one section but not all sections, the individual taking the

examination shall be given credit for the sections passed and shall not be required to be reexamined in those sections.

C. On all sections of the examination not passed, after taking the examination the first time, an individual may take one section at a time. The individual being reexamined shall designate the section he or she wants to retake prior to taking the subsequent examination.

D. An individual shall be given credit for any section of an examination passed in another state pursuant to the applicable requirements as if the applicant had taken the examination in this state. Such examination shall be equivalent to the examination administered in this state as determined by the Committee.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.64 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Until January 1, 1996, individuals applying to become an accounting practitioner shall be so authorized without taking an examination if the individual:

1. Has a high school diploma; and
2. Has had two (2) or more years of experience exercising independent judgment in the performance of accounting services as their principal occupation.

B. An individual who obtains authorization to provide accounting services as an accounting practitioner pursuant to the provisions of this section shall complete, during the twelve-month period immediately following authorization, at least twenty-four (24) hours of continuing professional education in the subject of accounting in a manner acceptable to the Committee.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.65 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Committee may grant reciprocal authorization to provide accounting services as an accounting practitioner to an individual who demonstrates to the satisfaction of the Committee that he or she has been authorized to provide the same type of accounting services as are regulated by the Oklahoma Accounting Practitioner Oversight Act by the District of Columbia or another state or territory of the United States.

B. An individual obtaining reciprocal authorization to provide accounting services as an accounting practitioner to the public must also provide the Committee with satisfactory documentation that continuing professional education requirements equivalent to the requirements of this state have been met during the calendar year preceding the request for authorization.

C. The Committee may also grant authorization by reciprocity to the extent required by treaties entered into by the government of the United States.

D. An individual who can legally provide accounting services in the District of Columbia or any other state or territory of the United States or foreign country shall be allowed to provide accounting services in this state on a temporary basis without obtaining authorization. Such temporary basis must be as a result of the continuance of a job for a member of the public from outside of this state which extends into this state through common ownership, existence of a subsidiary, assets, or other operations located within this state.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.66 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No individual or entity shall represent to the public that the individual or entity has been qualified pursuant to the laws of this state to provide accounting services to the public as an

accounting practitioner until such individuals or entities have received authorization to make such representations.

B. Individuals who do not offer accounting services to the public can prepare financial statements for use within a business which is not offering accounting services to the public, and tax returns.

C. Any title, designation, words, letters, or abbreviations, including but not limited to "Accounting Practitioner", "A.P." or "Acct. Pr." which tend to indicate that the individual or entity using the designation has been authorized by this state to legally offer accounting services to the public may only be used by individuals who have received such authorization. The limitation imposed by the provisions of this subsection shall apply to both verbal and written representations.

D. Accounting practitioners who do not provide accounting services to the public may use the terms "Accounting Practitioner" or "A.P." on letterhead stationery and business cards so long as such use does not mislead the public as to qualifications to serve the public without violating the provisions of the Oklahoma Accounting Practitioner Oversight Act.

E. Individuals or firms may provide accounting services to the public under their own name or through a firm using a fictitious name. The individual or firm using a fictitious name shall list that fictitious name along with the name of the accounting practitioner on all official documents filed with the Committee or Board.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.67 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A firm providing accounting services to the public may only be owned by an accounting practitioner, public accountant, certified public accountant, or any combination thereof.

B. Each office established or maintained in this state by an individual or firm authorized to provide accounting services to the public shall be subject to the direct supervision of a designated manager. The designated manager may be either an accounting practitioner, a public accountant, or a certified public accountant.

C. A public accountant or certified public accountant is authorized to work as an employee of an accounting practitioner and may maintain his or her license or certificate so long as such individual employee signs his or her own name to any work product which qualifies as the practice of public accounting pursuant to the provisions of the Oklahoma Accountancy Act.

D. An individual who is not authorized to provide accounting services in this state may serve as an employee of a firm composed of accounting practitioners, certified public accountants, public accountants, or any combination thereof provided that such employee shall not provide accounting services to the public.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.68 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. On or before July 1 of each year, each individual who has been granted authority to provide accounting services as an accounting practitioner shall be required to renew that authorization annually. Annual authorization renewal shall be accomplished by:

1. An application for renewal in the name of the accounting practitioner and any fictitious name used to provide accounting services to the public in such form as the Accounting Practitioner Committee shall prescribe;

2. Documented proof of meeting continuing professional education requirements in such form as the Committee shall prescribe; and

3. Payment of a renewal fee.

B. On or before January 1 of each year, each firm offering services to the public which include accounting services by an accounting practitioner shall be required to annually record the following information in such form as the Committee shall prescribe. Annual authorization renewal shall be accomplished by:

1. An application for renewal in such form as the Committee shall prescribe in the name of the firm owners and any fictitious name being used to represent the firm;

2. Documented proof of the meeting of continuing professional education requirements of each accounting practitioner in the firm in such form as the Committee shall prescribe;

3. Payment of a renewal fee;

4. Proof that all individuals in the firm who are offering accounting services to the public are either accounting practitioners, certified public accountants, or public accountants;

5. A list of all states in which the firm provides accounting services;

6. Relevant information regarding any disciplinary action, both civil and criminal, taken against the firm or any member of the firm by any state regulatory body, both in this state or any other state; and

7. Such other information deemed relevant by the Committee for the protection of the public in the furnishing of accounting services in this state.

C. An individual ceasing to provide accounting services to the public or any firm which has been providing accounting services to the public dissolving their association shall notify the Committee of such action within thirty (30) days of the action taken. The notice shall be in such form as prescribed by the Committee.

D. At any time an accounting practitioner for any reason ceases to be a member of a firm providing accounting services to the public, the name of that accounting practitioner shall not be used

by the firm after one (1) year from the date that accounting practitioner ceased to be a member of the firm.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.69 of Title 59, unless there is created a duplication in numbering, reads as follows:

After proper notice and hearing, the authority to provide accounting services of an individual or firm may be revoked or suspended by the Board upon recommendation of the Committee for any one or more of the following reasons:

1. Knowingly providing incorrect information to the Committee or Board on an application to take an examination;
2. Knowingly providing incorrect information to the Committee or Board on an application to provide accounting services;
3. Dishonesty, fraud, or gross negligence in the providing of accounting services; or
4. Providing services outside the scope of accounting services as established by the Oklahoma Accounting Practitioner Oversight Act which may only be performed by a public accountant or certified public accountant.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.70 of Title 59, unless there is created a duplication in numbering, reads as follows:

Any individual authorized to provide accounting services to the public who knowingly falsifies any statement bearing on any activity performed as an accounting practitioner made by that accounting practitioner or at the direction of that accounting practitioner shall be guilty of a felony, and upon conviction shall be punished by imprisonment for a period of not more than one (1) year, or by a fine of not more than Twenty-five Thousand Dollars (\$25,000.00), or by both such imprisonment and fine.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.71 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Any individual who provides accounting services to the public who has not been authorized to so do or who violates any of the provisions of the Oklahoma Accounting Practitioner Oversight Act, upon conviction, shall be guilty of a misdemeanor.

B. In addition to any criminal penalties which may be imposed, upon a determination that an individual, firm, or other entity has violated the provisions of the Oklahoma Accounting Practitioner Oversight Act, the Board, upon recommendation of the Committee, may take any one or more of the following actions:

1. Deny authority to provide accounting services to the public;
2. Deny the granting of the authority to be an accounting practitioner;
3. Deny renewal of the authority to provide accounting services;
4. Revoke the authority to provide accounting services;
5. Suspend the authority to provide accounting services for not more than five (5) years;
6. Issue a reprimand;
7. Place an accounting practitioner or firm of accounting practitioners on probation for a specified period of time;
8. Limit the scope of accounting services which can be provided for a specified period of time;
9. Require special quality review of an accounting practitioner;
10. Require successful completion of continuing professional educational programs deemed appropriate;
11. Cause the issuance of a cease and desist order by the Board in the same manner and subject to the same provisions as provided

for such orders by the Board in Section 15.27 of Title 59 of the Oklahoma Statutes;

12. Cause an application to be made for an injunction order by the Board in the same manner and subject to the same provisions as provided for such applications in Section 15.27 of Title 59 of the Oklahoma Statutes;

13. Assess an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00) for each separate offense; or

14. Require the offending individual, firm, or other entity to pay all of the costs incurred by the Committee and the Board as a result of the investigation and hearing resulting in the need to impose a penalty.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.72 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Upon a written application, the authority to provide accounting services by an accounting practitioner may be reinstated by the Board. The Board, upon recommendation from the Committee, may attach conditions regarding quality review or continuing professional education courses requirements to reinstatement.

B. The provisions of this section shall not be construed to preclude the Board from entering into any agreement to resolve a complaint prior to a formal hearing on the complaint or before the Board enters a final order.

C. All monies, excluding costs, collected from civil penalties imposed by the Board, which shall be enforceable in the district courts of this state, shall be deposited with the State Treasurer to be paid into the General Revenue Fund of this state.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.73 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. As a condition for renewing the authorization to provide accounting services to the public, the Accounting Practitioner Committee may recommend that accounting practitioners undergo a quality review at least once every three (3) years.

B. Failure of any accounting practitioner to fully cooperate with the Committee or any individual acting at the direction of the Committee in performing a quality review shall be subject to disciplinary procedures recommended by the Committee.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.74 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In order to ensure continuing professional competence of accounting practitioners, and as a condition for annual renewal of the authority to provide accounting services to the public, an accounting practitioner shall furnish evidence of participation in continuing professional education.

B. An accounting practitioner providing accounting services to the public shall complete at least one hundred twenty (120) hours of continuing professional education within a three-year period with completion of at least thirty-two (32) hours in any calendar year.

C. The Committee shall have the authority to waive the hour and year limitation for hardship cases. Such cases shall be determined on an individual basis. All relevant information persuading the Committee to recommend the waiver shall be reduced to written form and shall become a part of the permanent official files of the Committee.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.75 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Authorization to provide accounting services to the public shall not be required for individuals or firms which only provide

tax return preparation services. Such individuals or firms shall not provide any other accounting services to the public.

B. Individuals or firms which only provide tax return preparation services shall be required to provide the Committee with the name, address, and social security number of each individual who will be offering tax return preparation services.

C. The Committee shall maintain a current master list of all individuals offering tax return preparation services in this state.

D. The Committee is authorized to accept complaints from the public regarding the providing of tax return preparation services.

1. The Committee shall only accept written and signed complaints.

2. The individual or firm against whom a complaint is filed shall be notified in writing by the Committee of the complaint and the allegations contained in that complaint.

3. The individual or firm which is the subject of a complaint shall be permitted to file a written response to the complaint.

4. The complaint and the response, or documentation indicating the subject of the complaint declined to respond, shall be kept together so that any person seeking information regarding a complaint shall have access both to the complaint and the response at the same time.

E. All complaints and responses shall be maintained as a public record of the Committee.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15.76 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Committee shall make the following recommendations regarding fees:

1. Examination fees:

a. Each individual who wants to sit for an examination shall pay a fee to be determined by the Committee not

to exceed Three Hundred Dollars (\$300.00) for the initial examination.

- b. Each individual who has failed one or more parts of the initial examination who wants to be reexamined in those failed parts shall pay a fee not to exceed Seventy-five Dollars (\$75.00) for each failed subject in which the individual is reexamined. Any individual sitting for reexamination in the subject of accounting practice shall pay a fee not to exceed One Hundred Fifty Dollars (\$150.00).
- c. The applicable fee shall be paid by the individual wanting to take the examination at the time the application for examination or reexamination is filed.
- d. The examination or reexamination fee shall not be refunded unless the Committee determines that the applicant is, upon the initial review of the application, unqualified to sit for examination or reexamination.
- e. Upon the determination that an applicant is not qualified to sit for examination or reexamination, the full amount of the fee shall be refunded.

2. Authorization to offer accounting services as an accounting practitioner fees:

- a. The fee for annual authorization to provide accounting services as an accounting practitioner shall be an amount set by the Committee which shall not exceed One Hundred Dollars (\$100.00).
- b. The fee for reinstatement for failure to timely renew authorization shall be an amount set by the Committee which shall not exceed Two Hundred Dollars (\$200.00).
- c. The fee for reinstatement after disciplinary action has been taken shall be an amount set by the Committee

which shall not exceed Three Hundred Dollars
(\$300.00).

B. The fee for each separate office of an individual or firm providing accounting services to the public shall be Fifty Dollars (\$50.00).

C. The fee for being listed as a tax return preparer shall be Ten Dollars (\$10.00).

SECTION 28. A. From September 1, 1994, through August 31, 1995, the Board, as a special research project, shall transfer funds from the Accountancy Fund to the Accounting Practitioner Revolving Fund to assist in the first year of implementation of the Oklahoma Accounting Practitioner Oversight Act.

B. All such research project funds shall be repaid to the Accountancy Fund from the Accounting Practitioner Revolving Fund no later than July 1, 1996.

SECTION 29. AMENDATORY Section 2, Chapter 272, O.S.L. 1992 (59 O.S. Supp. 1993, Section 15.1A), is amended to read as follows:

Section 15.1A As used in ~~this act~~ the Oklahoma Accountancy Act:

1. "Accountancy" means the profession or practice of accounting;

2. "Applicant" means an individual or entity which has made application to the Board for a certificate, license, or permit and said application has not been approved;

3. "Attestation" means a written communication that expresses a conclusion about the reliability of a written assertion that is the responsibility of another party;

4. "Audit" can only be performed by an individual or entity who is registered with the Board and holding a valid permit issued pursuant to the Oklahoma Accountancy Act and means a systematic investigation or appraisal of information, procedures, or operations performed in accordance with generally accepted auditing standards

in the United States, for the purpose of determining conformity with established criteria and communicating the results to interested parties;

5. "Board" means the Oklahoma Accountancy Board;

6. "Candidate" means an individual who has been qualified and approved by the Board to take an examination for a certificate or license;

7. "Certificate" means the Oklahoma document issued by the Board to a candidate upon successful completion of the certified public accountant examination designating the holder as a certified public accountant pursuant to the laws of Oklahoma. "Certificate" shall also mean the Oklahoma document issued by reciprocity to an individual who has previously been certified in another jurisdiction;

8. "Certified public accountant" means any person who has received a certificate from the Board;

9. "Client" means the individual or entity which retains a registrant to perform professional services;

10. "Compilation" when used with reference to financial statements, means presenting information in the form of financial statements which is the representation of management or owners without undertaking to express any assurance on the statements;

11. "CPA" or "C.P.A." means certified public accountant;

12. "Designated manager" means the individual domiciled in Oklahoma and appointed by the firm partners or shareholders to be responsible for the administration of the office;

13. "Entity" means an organization whether organized for profit or not, corporation, partnership, or governmental agency;

14. "Examination" means the written test administered, supervised, and graded by or at the direction of the Board which is required for a certificate as a certified public accountant or a license as a public accountant;

15. "Executive director" means the chief administrative officer of the Board;

16. "Financial statements" means a written statement and related footnotes purporting to show actual or anticipated financial position, the results of operations, cash flow, or changes in financial position which relate to a specific period of time, on the basis of generally accepted accounting principles. The term "financial statements" also includes specific elements, accounts, or items of such statements, but does not include incidental financial data included in management advisory services, reports to support recommendations to a client nor does it include tax returns and supporting schedules;

17. "Firm" means an entity which is either a sole proprietorship, partnership, or professional corporation including individual partners or shareholders which is engaged in accountancy;

18. "Holding out" means any representation by an individual that he or she holds a certificate or license and a valid permit, or by an entity that it holds a valid permit. Any such representation is presumed to invite the public to rely upon the professional skills implied by the certificate or license and valid permit in connection with the services or products offered;

19. "Individual" means a human being;

20. "License" means the Oklahoma document issued by the Board to a candidate upon successful completion of the public accountant examination designating the holder as a public accountant pursuant to the laws of Oklahoma. "License" shall also mean the Oklahoma document issued by the Board by reciprocity to a public accountant who has previously been licensed by examination in another jurisdiction;

21. "Management advisory services", "management consulting services", or "management services" (hereinafter collectively referred to as "MAS") means the function of providing advice and/or

technical assistance, performed in accordance with standards for MAS engagements and MAS consultations such as those issued by the American Institute of Certified Public Accountants, where the primary purpose is to help the client improve the use of its capabilities and resources to achieve its objectives including but not limited to:

- a. counseling management in analysis, planning, organizing, operating, and controlling functions,
- b. conducting special studies, preparing recommendations, proposing plans and programs, and providing advice and technical assistance in their implementation,
- c. reviewing and suggesting improvement of policies, procedures, systems, methods, and organization relationships, and
- d. introducing new ideas, concepts, and methods to management.

MAS shall not include recommendations and comments prepared as a direct result of observations made while performing an audit, review, or compilation of financial statements or while providing tax services, including tax consultations;

22. "MAS engagement" means that form of MAS in which an analytical approach and process is applied in a study or project. MAS engagement constitutes more than an incidental effort devoted to some combination of activities relating to the determination of client objectives, fact finding, opportunity or problem definition, evaluation of alternatives, formulation of proposed action, communication of results, implementation, and follow-up;

23. "MAS consultation" means that form of MAS based primarily on existing personal knowledge about the client, the circumstances, the technical matters involved, and the mutual intent of the parties. MAS consultation may include but is not limited to advice or information given by a registrant in a short time frame wherein

information is received through verbal discussions with the client and is accepted by the registrant as represented. The response of the registrant may be definitive when existing personal knowledge is deemed adequate; otherwise it may be qualified, in which case limitations are stated. A qualified response often reflects cost, time, scope, or other limitations imposed by the specific circumstances of the client;

24. "PA" or "P.A." means public accountant;

25. "Partnership" means a contractual relationship based upon a written, oral, or implied agreement, between two or more individuals who combine their resources and activities in a joint enterprise and share in varying degrees and by specific agreement in the management and in the profits or losses. A partnership may be general or limited as those terms are defined by the laws of this state;

26. "Permit" means the written authority granted annually by the Board to individuals or firms to practice public accounting in Oklahoma which is issued pursuant to the Oklahoma Accountancy Act;

27. "Practice of public accounting" refers to the activities of a registrant in reference to accountancy.

a. a registrant shall be deemed to be engaged in the practice of public accounting when performed by a certified public accountant or public accountant if the registrant performs the following:

- (1) holds himself or itself out to the public in any manner as one skilled in the knowledge, science, and practice of accounting and auditing, and qualified and ready to render professional services therein as a certified public accountant or public accountant,
- (2) maintains an office for the transaction of business as a certified public accountant or public accountant,

- (3) offers to prospective clients to perform or who does perform on behalf of clients professional services that involve or require an audit, examination, verification, investigation, certification, presentation, or review of financial transactions and accounting records or an attestation concerning any other written assertion,
- (4) prepares or certifies for clients reports on audits or investigations of books or records of account, balance sheets, and other financial, accounting and related schedules, exhibits, statements, or reports which are to be used for publication or for the purpose of obtaining credit, or for filing with a court of law or with any governmental agency, or for any other purpose,
- (5) generally or incidentally to the work described herein, renders professional services to clients in any or all matters relating to accounting procedure and to the recording, presentation, or certification of financial information or data,
- (6) keeps books, or prepares trial balances, financial statements, or reports, all as a part of bookkeeping services for clients,
- (7) prepares or signs as the tax preparer, tax returns for clients,
- (8) prepares personal financial or investment plans or provides to clients products or services of others in implementation of personal financial or investment plans, or
- (9) provides management advisory services to clients;

b. an individual not holding a certificate or license shall not be deemed to be engaged in the practice of public accounting if the individual does not hold himself or herself out, solicit, or advertise for clients using the certified public accountant or public accountant designation and engages only in the following services:

- (1) keeps books, or prepares trial balances, financial statements, or reports, provided such instruments do not use the terms "audit", "audited", "review" or "reviewed" or are not exhibited as having been prepared by a certified public accountant or public accountant,
- (2) prepares or signs as the tax preparer, tax returns for clients,
- (3) prepares personal financial or investment plans or provides to clients products or services of others in implementation of personal financial or investment plans, or
- (4) provides management advisory services to clients;

c. a person is not holding himself or herself out, soliciting or advertising for clients within the meaning of this section solely by reason of displaying a CPA certificate or a PA license in the office, identifying himself or herself as a CPA or PA on letterhead or business cards, or identifying himself or herself as a CPA or PA. However, the designation of CPA or PA on public signs, advertisements, publications directed to clients or potential clients, or financial or tax documents of a client constitutes the practice of public accounting and requires a permit;

28. "Professional corporation" means a corporation organized pursuant to the laws of Oklahoma;

29. "Professional services" means any services performed or offered to be performed by a permit holder for a client in the course of the practice of public accounting;

30. "Public accountant" means any individual who has received a license from the Board;

31. "Quality review" means a review performed pursuant to a set of quality review rules established by the Board of one or more aspects of the professional work of an individual or firm holding a valid permit by an individual who holds the same type of permit as the individual or firm being reviewed but who is not affiliated with the individual or firm being reviewed. The term peer review is encompassed in the broader term quality review;

32. "Registrant" means a CPA, PA, or firm composed of certified public accountants or public accountants or combination of both currently registered with the Board pursuant to the authority of the Oklahoma Accountancy Act;

33. "Report", when used with reference to financial statements, or specified elements, accounts or items of a financial statement, means an opinion or other form of language that states or implies assurance as to the reliability of any financial statements, or specified elements, accounts or items of a financial statement, and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that he is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial

statements referred to and/or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence. ~~This definition is not intended to include a report on financial statements prepared by a person not holding a certificate or license. However, such report shall not refer to "audit", "audited", "review" or "reviewed", nor use the language "in accordance with standards established by the American Institute of Certified Public Accountants" or successor of said entity;~~

34. "Representation" means any oral or written communication including but not limited to the use of title or legends on letterheads, business cards, office doors, advertisements, and listings conveying the fact that an individual or entity holds a certificate, license or permit; and

35. "Review", when used with reference to financial statements, means a registrant performing inquiry and analytical procedures that provide the registrant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles or if applicable, with another comprehensive basis of accounting.

SECTION 30. NONCODIFICATION Section 28 of this act shall not be codified in the Oklahoma Statutes.

SECTION 31. This act shall become effective September 1, 1994.

44-2-1534 JY