



**CO L O R A D O**

**Department of  
Regulatory Agencies**

Colorado Office of Policy, Research &  
Regulatory Reform

**2018 Sunset Review:  
State Board of Accountancy**

*October 15, 2018*



**CO L O R A D O**

**Department of  
Regulatory Agencies**

Executive Director's Office

October 15, 2018

Members of the Colorado General Assembly  
c/o the Office of Legislative Legal Services  
State Capitol Building  
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Since that time, Colorado's sunset process has gained national recognition and is routinely highlighted as a best practice as governments seek to streamline regulation and increase efficiencies.

Section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), directs the Department of Regulatory Agencies to:

- Conduct an analysis of the performance of each division, board or agency or each function scheduled for termination; and
- Submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination.

The Colorado Office of Policy, Research and Regulatory Reform (COPRRR), located within my office, is responsible for fulfilling these statutory mandates. Accordingly, COPRRR has completed the evaluation of the State Board of Accountancy (Board). I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2019 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Article 2 of Title 12, C.R.S. The report also discusses the effectiveness of the Board and Division of Professions and Occupations staff in carrying out the intent of the statutes and makes recommendations for statutory changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Marguerite Salazar  
Executive Director





# COLORADO

## Department of Regulatory Agencies

Colorado Office of Policy, Research &  
Regulatory Reform

## 2018 Sunset Review State Board of Accountancy

### SUMMARY

#### ***What is regulated?***

Colorado licenses certified public accountants (CPAs) and public accounting firms.

#### ***Why is it regulated?***

Regulation assures that CPAs meet competency standards and that firms comply with the law and conduct business in accordance with generally accepted accounting principles.

#### ***Who is regulated?***

In fiscal year 16-17, there were 19,225 licensed CPAs and 1,264 registered public accounting firms.

#### ***How is it regulated?***

The State Board of Accountancy (Board) regulates CPAs and public accounting firms in Colorado. The Board, housed within the Department of Regulatory Agencies' Division of Professions and Occupations, licenses CPAs and registers firms. To qualify for a CPA license, a person must have a bachelor's degree in accounting, have completed a total of at least 150 hours of college education, complete a professional ethics course, and have one year of work experience.

#### ***What does it cost?***

In fiscal year 16-17, the Board's regulatory activities cost \$664,177 and there were 2.5 full-time equivalent employees allocated to the Board.

#### ***What disciplinary activity is there?***

Between fiscal years 12-13 and 16-17, the Board took a total of 511 disciplinary actions—including stipulations, revocations, suspensions, and letters of admonition—against CPAs and public accounting firms.

## KEY RECOMMENDATIONS

### ***Continue the State Board of Accountancy for 11 years, until 2030.***

Only a CPA may opine, as an independent auditor, on the financial position of a business or the reliability of its financial records. This takes considerable subject matter expertise. The Board requires CPAs to meet rigorous experience and education standards and pass a four-part examination to qualify for a CPA license. These requirements assure CPAs possess the knowledge and skills to practice competently. Further, the Board requires CPAs and public accounting firms to undergo periodic peer review, a process which ensures an individual or firm's accounting practices comply with generally accepted standards. The Board fields complaints against licensed CPAs and public accounting firms and takes disciplinary actions against those found to have harmed the public. With all of these activities, the Board serves to protect the public interest. Therefore, regulation is justified.

### ***Make the use of fraudulent, coercive, or dishonest practices, or the demonstration of incompetence or untrustworthiness, grounds for discipline.***

Colorado CPAs with a demonstrated history of dishonesty or untrustworthiness can cause harm to Colorado consumers, but the Board currently has limited recourse to take action against them. There are instances where it would be appropriate for the Board to be able to use other types of conduct as the grounds for disciplinary action. CPAs have significant access to personal data and financial records that could be easily misused. Such misuse can cause significant harm, such as financial losses and identity theft. The Board has a responsibility to protect the public from CPAs with documented histories of dishonesty and untrustworthiness and should be empowered to investigate these cases and take disciplinary action if it deems necessary.

## METHODOLOGY

As part of this review, Colorado Office of Policy, Research and Regulatory Reform staff attended Board meetings, interviewed Division staff and Board members, reviewed records, interviewed officials with state and national professional associations, reviewed Colorado statutes and rules, and reviewed the laws of other states.

## MAJOR CONTACTS MADE DURING THIS REVIEW

American Institute of Certified Public Accountants  
Colorado Division of Professions and Occupations  
Colorado Society of Certified Public Accountants  
National Association of State Boards of Accountancy  
Public Accountants Society of Colorado  
State Board of Accountancy

### **What is a Sunset Review?**

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are prepared by:  
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Colorado Office of Policy, Research and Regulatory Reform  
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# Background

## Introduction

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria<sup>1</sup> and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are based on the following statutory criteria:

- Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;

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<sup>1</sup> Criteria may be found at § 24-34-104, C.R.S.

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- Whether the agency through its licensing or certification process imposes any disqualifications on applicants based on past criminal history and, if so, whether the disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subparagraph (i) of paragraph (a) of subsection (8) of this section shall include data on the number of licenses or certifications that were denied, revoked, or suspended based on a disqualification and the basis for the disqualification; and
  - Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

## Types of Regulation

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

### Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection - only those individuals who are properly licensed may use a particular title(s) - and practice exclusivity - only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

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## Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

## Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements - typically non-practice related items, such as insurance or the use of a disclosure form - and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

## Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency - depending upon the prescribed preconditions for use of the protected title(s) - and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.



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## Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.

Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

## **Sunset Process**

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review on COPRRR's website at: [www.dora.colorado.gov/opr](http://www.dora.colorado.gov/opr).

The functions of the State Board of Accountancy (Board) as enumerated in Article 2 of Title 12, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2019, unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the Board pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation should be continued and to evaluate the performance of the Board and the staff of the Division of Professions and Occupations (Division). During this review, the Board and the Division must demonstrate that the program serves the public interest. COPRRR's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

## **Methodology**

As part of this review, COPRRR staff attended Board meetings; reviewed Board records, including complaints; interviewed officials with state and national professional associations, regulators from other states, and other stakeholders; reviewed Colorado statutes and rules; and reviewed the laws of other states.

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## Profile of the Profession

In discussing the accounting profession, it is important to draw a distinction between public accountants, who are not regulated, and certified public accountants (CPAs) who are regulated. Though CPAs and public accountants perform many of the same functions, CPAs and the public accounting firms that employ them are the subject of this sunset review.

Generally, both CPAs and public accountants prepare, evaluate, and inspect the financial records of individuals and businesses. They prepare and file tax returns, assure that financial records are properly kept, provide financial planning or consulting services, and issue compilation reports (which provide a general financial overview of a business without attesting to the accuracy of the information). Perhaps the most critical role of CPAs and public accountants is to provide assurance to lenders, shareholders, and other interested parties as to whether financial statements are accurate and free of material misstatement. The two basic levels of assurance are review and audit, referred to collectively as “attest” activities.

CPAs and public accountants work in a wide variety of settings, as sole practitioners, in large, global accounting firms, in non-profit organizations, private companies and government agencies.

Although CPAs and public accountants generally have similar educational backgrounds and provide many of the same services, there are a few scenarios where a CPA license is required. Notably, anyone filing documents with the Securities and Exchange Commission must be a CPA. Also, certain accounting functions might require a CPA license: in Colorado, only CPAs may perform audits as independent auditors (public accountants may conduct reviews). CPAs sometimes have a professional advantage in the workplace, with some firms either requiring or preferring licensed candidates for advancement.

All 50 states have CPA licensing programs. Generally, to obtain a CPA license, a person must:

- Complete 150 credit hours of education in accounting, which is equivalent to a bachelor’s degree plus 30 additional credit hours;
- Pass the four-part Uniform CPA Examination; and
- Accumulate a certain number of hours of work experience in public accounting. The type of acceptable work and the precise number of hours for the experience requirement varies by state.

Most states require CPAs to complete 40 hours of continuing education annually as a condition of licensure.

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In 2017, the median wage for public accountants was \$69,350.<sup>2</sup> The U.S. Bureau of Labor Statistics projects that employment of accountants will grow 10 percent from 2016 to 2026, which is faster than the average of all professions, attributing the faster-than-average projected growth to “globalization, a growing economy, and a complex tax and regulatory environment.”<sup>3</sup>

In most states, including Colorado, CPAs who offer certain accounting services must do so in a CPA firm that is licensed by the state. Typically, in order to qualify for a firm license, a firm must comply with ownership requirements and undergo peer review—a process wherein an independent CPA reviews and evaluates a firm’s professional work—on a prescribed basis.

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<sup>2</sup> United States Department of Labor, Bureau of Labor Statistics. *Occupational Outlook Handbook: Accountants and Auditors*. Retrieved on June 25, 2018, from <https://stats.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm>

<sup>3</sup> United States Department of Labor, Bureau of Labor Statistics. *Occupational Outlook Handbook: Accountants and Auditors*. Retrieved on June 25, 2018, from <https://stats.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm>

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# Legal Framework

## History of Regulation

The General Assembly imposed regulation on Certified Public Accountants (CPAs) beginning in 1907. The original statute created the State Board of Accountancy (Board) and allowed accountants meeting certain criteria to obtain a state license. People were not required to hold the license to practice public accounting, and there were no limits placed on those who did not hold the credential. The statute offered title protection for CPAs, meaning that it was a violation to hold oneself out as a CPA without being so licensed.

For decades, the Board and the General Assembly grappled with which accounting functions could be performed by unlicensed public accountants and which had to be performed exclusively by licensed CPAs. Ultimately, in 1990, the Colorado Court of Appeals, in *Cartwright v. State Board of Accountancy*,<sup>4</sup> determined that the Board did not have the authority to prevent a public accountant from performing an audit unless that public accountant was acting as an independent auditor. The court also recognized that the review process is a separate function from an audit, and therefore the statutory prohibition on non-CPAs performing audits did not apply to reviews.

In 1999, the Board underwent sunset review. The resulting bill limited Board members to two consecutive terms, granted the Board the authority to issue confidential letters of concern, and repealed the requirement that every partner, shareholder, or member of a Colorado public accounting firm must be a Colorado-licensed CPA, requiring instead that a simple majority of the firm's ownership be licensed.

In 2003, the General Assembly created an exception to “accountant-client privilege,” statutory provisions which allow communications between accountants and their clients to remain confidential. The exception allowed the Board to subpoena a CPA's working papers and reports under certain limited circumstances when investigating a case.

The Board underwent sunset again in 2004. The resulting bill further simplified the licensing requirement for the ownership of public accounting firms, allowing a simple majority of a firm's ownership to hold a license in any state (not just Colorado).

In 2008, the General Assembly passed House Bill 08-1226, which implemented “mobility,” allowing licensed CPAs based in another state to practice in Colorado without obtaining a Colorado license. The bill established that anyone practicing in Colorado under the mobility provisions must consent to be subject to the Board's jurisdiction and disciplinary authority.

The bill passed following the 2009 sunset review made numerous changes to the statute. Most notably, it increased the educational requirement to qualify for a CPA license from 120 to 150 credit hours. The bill also expanded the types of work experience accepted

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<sup>4</sup> 796 P.2d 51 (Colo. App. 1990).

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to qualify for a Colorado CPA license, expanded the list of disciplinary actions the Board could take against public accounting firms to parallel those that could be taken against CPAs, permitted the Board to levy fines on a per violation basis, and increased the dollar amount of maximum allowable fines.

## Legal Summary

The laws governing the regulation of CPAs and public accounting firms (firms) are housed within Article 2 of Title 12, Colorado Revised Statutes (C.R.S.).

Although public accountants—which Colorado does not regulate—may perform most accounting functions, they cannot act as independent auditors when investigating, examining or auditing financial statements, or when attesting as to a person’s or company’s financial position or the reliability or accuracy of financial information.<sup>5</sup> Only a CPA may perform these functions as an independent auditor. Further, only a person with an active CPA license may use the titles “certified public accountant,” “CPA,” or any other title that suggests the person is a CPA.<sup>6</sup>

The Board is vested with the authority to regulate CPAs and public accounting firms in Colorado. The Board consists of seven Governor-appointed members, all of whom must be U.S. citizens and Colorado residents. Five members must be Colorado-licensed CPAs: a majority of the CPA members must be actively practicing as CPAs. The remaining two members represent the public. Members may serve up to two consecutive four-year terms.<sup>7</sup> Every year, the Board must elect a chair from among its members.<sup>8</sup>

The Board’s responsibilities include:<sup>9</sup>

- Administering the law and promulgating all rules necessary to do so;
- Establishing rules of professional conduct for Colorado CPAs;
- Administering—or contracting with entities to administer—examinations;
- Contracting with entities to receive and review CPA license applications and granting such licenses;
- Taking actions against people found to have violated the law, by suspending, revoking, or denying their licenses; placing them on probation; issuing letters of admonition; or levying fines;
- Issuing confidential letters of concern;
- Issuing cease-and-desist orders; and
- Collecting fees.

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<sup>5</sup> § 12-2-120(6)(a)(II), C.R.S.

<sup>6</sup> §§ 12-2-115(1), (3)(a), and (4), C.R.S.

<sup>7</sup> § 12-2-103(1), C.R.S.

<sup>8</sup> § 12-2-104(1)(a), C.R.S.

<sup>9</sup> § 12-2-104(1), C.R.S.

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The Board must offer a licensing examination that tests for a minimum level of competency:<sup>10</sup> the examination offered by the American Institute of Certified Public Accountants meets this standard.<sup>11</sup> The Board must also grant approval to accounting education programs that have adequate equipment and resources and possess a curriculum designed to give students proficiency in the subjects necessary to pass the examination.<sup>12</sup>

In order to qualify for a CPA license in Colorado, an applicant must have passed the licensing examination<sup>13</sup> and completed:<sup>14</sup>

- A bachelor's degree (or higher) from an accredited college or university<sup>15</sup> with an accounting concentration or its equivalent, as determined by the Board;
- At least 150 credit hours of college education, approved by the Board;
- A Board-approved course of study in professional ethics and passed a written examination concerning such subject prepared and given by educational institutions or professional organizations deemed qualified by the Board to administer the examination; and
- One year of work experience accrued within the previous five years in any type of service involving the use of accounting, attestation, compilation, management advisory, financial advisory, tax, or consulting skills, which may be gained through employment in government, industry, academia, or public practice; and that is verified by an actively licensed CPA who meets the Board requirements set in rule.

The Board may also issue Colorado CPA licenses to applicants who are so licensed in other states or countries with license qualifications that are substantially equivalent to Colorado's.<sup>16</sup> That said, a CPA who holds a valid license in another state may practice in Colorado without a Colorado license as long as the CPA consents to be subject to the Board's jurisdiction and disciplinary authority.<sup>17</sup>

In order to renew a CPA license, a person must comply with the Board's continuing education requirement.<sup>18</sup> Current rule requires that an actively licensed CPA complete 10 hours of continuing education each quarter, or 40 hours per year.<sup>19</sup> This is the maximum number of hours the statute allows.<sup>20</sup>

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<sup>10</sup> § 12-2-111(1), C.R.S.

<sup>11</sup> § 12-2-111(3), C.R.S.

<sup>12</sup> § 12-2-112(1), C.R.S.

<sup>13</sup> § 12-2-108(1)(c), C.R.S.

<sup>14</sup> § 12-2-109(2), C.R.S.

<sup>15</sup> Section 12-2-102(1), C.R.S., defines an accredited college or university as one accredited by any one of six regional accrediting agencies, or a college or university that meets academic standards substantially equivalent to those so accredited.

<sup>16</sup> § 12-2-113(1)(a), C.R.S.

<sup>17</sup> § 12-2-121(2)(c)(I), C.R.S.

<sup>18</sup> § 12-2-119(5), C.R.S.

<sup>19</sup> 3 CCR § 705-1-6.7(C), State Board of Accountancy Rules.

<sup>20</sup> § 12-2-119(6)(a), C.R.S.

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CPAs who are not working as CPAs may request that their licenses be placed on inactive status and are exempted from the continuing education requirement.<sup>21</sup> Inactive CPAs may use the titles “inactive certified public accountant” or “inactive CPA”<sup>22</sup> and remain under Board jurisdiction.<sup>23</sup> CPAs seeking to reactivate an inactive license must meet the continuing education requirements before receiving an active license.<sup>24</sup>

CPAs meeting certain conditions may apply to the Board for a retired status license.<sup>25</sup> Retired CPAs may use the title “retired certified public accountant” or “retired CPA”<sup>26</sup> and they remain under Board jurisdiction, but they cannot practice.<sup>27</sup>

Public accounting firms providing CPA services in Colorado must register with the Board.<sup>28</sup> An application for a public accounting firm registration must include:<sup>29</sup>

- The names and addresses of each person practicing public accounting for the firm and of all partners, shareholders, or members;
- Disclosure of all states where the firm has a license, certification, or other credential permitting it to practice, and of any disciplinary action taken in another state; and
- A registration fee.

All partners, shareholders or members of a public accounting firm are liable for all acts, errors, or omissions of the firm’s employees unless the firm holds liability insurance<sup>30</sup> of at least \$50,000 for each CPA the firm employs.<sup>31</sup>

Each resident manager of a Colorado public accounting firm must hold a Colorado CPA license in good standing.<sup>32</sup> A simple majority of the owners of a public accounting firm must be licensed as CPAs, either in Colorado or any other state.<sup>33</sup>

The Board requires all public accounting firms and CPAs that issue compilation reports or attest reports (i.e., audits or reviews) to undergo peer review, a process wherein an independent CPA reviews and evaluates their professional work,<sup>34</sup> at least once every three years.<sup>35</sup> CPAs who work for registered public accounting firms subject to the peer review requirement are exempted from the individual peer review requirement.<sup>36</sup>

The Board may take disciplinary action against people found to have violated the law. It may deny an applicant’s license; revoke, suspend, place on probation or impose other

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<sup>21</sup> § 12-2-122.5(1), C.R.S.

<sup>22</sup> § 12-2-115(3)(a), C.R.S.

<sup>23</sup> § 12-2-122.5(2), C.R.S.

<sup>24</sup> § 12-2-122.5(1), C.R.S.

<sup>25</sup> § 12-2-115.5(1), C.R.S.

<sup>26</sup> § 12-2-115.5(2), C.R.S.

<sup>27</sup> § 12-2-115.5(3), C.R.S.

<sup>28</sup> § 12-2-117(1), C.R.S.

<sup>29</sup> § 12-2-117(2)(a), C.R.S.

<sup>30</sup> § 12-2-117(3)(c), C.R.S.

<sup>31</sup> § 12-2-117(3)(c)(III), C.R.S.

<sup>32</sup> § 12-2-117(1)(e), C.R.S.

<sup>33</sup> § 12-2-117(1)(b)(I), C.R.S.

<sup>34</sup> § 12-2-102(2.9), C.R.S.

<sup>35</sup> 3 CCR § 705-1-8.1, State Board of Accountancy Rules.

<sup>36</sup> 3 CCR § 705-1-8.2, State Board of Accountancy Rules.

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restrictions on a license; levy a fine; or issue a letter of admonition. Grounds for discipline include:<sup>37</sup>

- Using fraud or deceit in obtaining or in attempting to obtain a CPA license or public accounting firm registration;
- Demonstrating fraud or negligence in the practice of public accounting in Colorado or any other state;
- Violating any provision of the Board’s laws or rules, of a valid agency order, or a rule of professional conduct;
- Having been convicted of, or entered a plea of guilty or nolo contendere to, a felony or any crime relating to dishonesty or fraud;
- Having had discipline taken against a person's authority to practice as a CPA or a public accountant in any jurisdiction;
- Providing public accounting services to the public for a fee without an active CPA license or a valid registration or acting as a member, partner, or shareholder of a partnership or professional corporation;
- Failing to comply with the Board’s continuing education requirements;
- Committing an act or making an omission which fails to meet generally accepted accounting principles or generally accepted auditing standards in the profession; and
- Using false, misleading, or deceptive advertising.

The Board may fine CPAs up to \$5,000 and public accounting firms up to \$10,000 per violation. All fines collected are credited to the General Fund.<sup>38</sup>

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<sup>37</sup> § 12-2-123(1), C.R.S.

<sup>38</sup> § 12-2-123(5), C.R.S.



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## Program Description and Administration

The State Board of Accountancy (Board) is vested with the authority to regulate certified public accountants (CPAs) in Colorado. Article 2 of Title 12, Colorado Revised Statutes (C.R.S.), creates the Board and establishes its powers and responsibilities.

The seven-member Board meets about eight times a year. Board meetings typically address licensing and enforcement matters, as well as general policy and issues relevant to the accounting profession.

The Division of Professions and Occupations within the Colorado Department of Regulatory Agencies (Division and DORA, respectively) provides administrative and managerial support to the Board.

Table 1 illustrates, for the five fiscal years indicated, the expenditures and full-time equivalent (FTE) employees associated with the Board.

**Table 1**  
**Agency Fiscal Information**

Fiscal Year	Total Program Expenditures	FTE
12-13	\$585,041	2.63
13-14	\$673,646	2.85
14-15	\$771,095	2.85
15-16	\$786,485	2.85
16-17	\$664,177	2.25

The surge in program expenditures in fiscal years 14-15 and 15-16 correlates with an increase in the number of licensed CPAs during that period.

In July 2018, there were 2.25 FTE dedicated to the Board, including:

- Program Manager II (0.35 FTE), who provides overall management and supervision of the Board and program area, including policy development, enforcement, licensing/registration, administrative responsibilities, and all matters related to the efficient and effective conduct of the Board and program.
- Administrator V (0.3 FTE), whose duties include managing the daily business of the Board and the program, acting as primary contact when the Program Manager is unavailable, overseeing administrative staff, and signing disciplinary documents as delegated authority.
- Technician V (0.4 FTE), whose duties include preparing documentation for Board review, documenting meeting notes, reviewing and editing meeting minutes, and managing contracts, compliance cases, and referrals to other Division units and state agencies.

- Technician IV (0.40 FTE), whose duties include evaluating applications where applicants have disclosed a criminal history, addressing licensing and continuing education inquiries, managing expense reimbursements, drafting correspondence, and fulfilling open records requests.
- Administrative Assistant III (0.4 FTE), whose duties include processing initial complaints, drafting meeting minutes, compiling documentation for Board review, sending dismissal letters, managing general email and phone correspondence, and updating the Board website.
- Administrative Assistant III (0.4 FTE), whose duties include acting as back up for the other administrative assistant, reviewing online complaints for priority criteria, assisting with Board packets as needed, conducting file archiving and retention, and following up on cases as needed.

This FTE allotment does not include employees in the centralized offices of the Division, which provide management, licensing, administrative, technical, and investigative support to the Board. However, the cost of those employees is reflected in the Total Program Expenditures in Table 1.

The majority of the routine licensing process for CPAs (applicants by examination or reciprocity) and for public accounting firms has been outsourced to the National Association of State Boards of Accountancy (NASBA), which administers the Uniform CPA Examination. NASBA forwards non-routine applications—such as those where the applicant’s education or experience requires additional scrutiny—to Division staff, who may in turn forward the application to the Board for additional guidance, if needed.

Table 2 shows the Board fees for fiscal year 17-18.

**Table 2  
State Board of Accountancy Fees**

Type of Fee	
Initial License	\$110
Transfer of Grades License	\$185
Reciprocal License	\$185
CPA Renewal	\$72
CPA Reinstatement	\$87
Firm Registration	\$175
Firm Renewal	\$165
Firm Reinstatement	\$180

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## Licensing

There are two routes to licensure in Colorado: by examination and by reciprocity. People who have passed the Uniform CPA Examination and hold a CPA license in another jurisdiction may apply for a license by reciprocity.

Table 3 illustrates, for the five fiscal years indicated, the number of CPA licenses and firm registrations issued.

**Table 3**  
**New Licenses**

Fiscal Year	CPAs by Examination	CPAs by Reciprocity	Accounting Firms
12-13	1,056	229	89
13-14	912	223	79
14-15	1,530	294	79
15-16	361	257	95
16-17	641	270	74

The spike in the number of CPA licenses issued in fiscal year 14-15, followed by a considerable drop, reflects Colorado’s transition from requiring 120 credit hours of education to qualify for a license to requiring 150 hours. A large number of applicants applied just before the new requirement went into effect on July 1, 2015. The number of new licenses by reciprocity followed a similar trend.

Table 4 illustrates the total number of licensed CPAs and registered public accounting firms on the final day of the fiscal year for five fiscal years.

**Table 4**  
**Total Number of Licensees**

Fiscal Year	CPAs	Accounting Firms
12-13	15,309	1,406
13-14	15,222	1,498
14-15	16,733	1,344
15-16	18,421	1,454
16-17	19,225	1,264

The total number of CPA licensees reflects the general pattern in the “New Licenses” table above: there was a sharp increase in the total number of licensed CPAs the year before the more stringent education went into effect.

CPAs renew their licenses every two years. When they renew, active CPAs must attest that they have completed at least 80 hours of continuing education within the previous two years. During the five-year period under review, the Board did not conduct any audits to verify compliance with the continuing education requirement. However, the

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Division Wide Programs and Services Work Unit plans to conduct such an audit in calendar year 2018.

When they renew, active CPAs must also attest that they have undergone peer review at least once within the previous three years. CPAs working for registered public accounting firms (which have their own peer review requirement) or who do not issue attest or compilation reports are exempt from the individual peer review requirement. Of the 17,486 active CPAs who renewed in 2017, 2,843 were subject to individual peer review.

Retired and inactive CPAs are exempt from both the continuing education and the peer review requirements.

## Examinations

In order to qualify for a license, whether by examination or by reciprocity, a candidate must pass the Uniform CPA Examination. In order to qualify to sit for the examination, an applicant must have met the education requirements laid out in law and rule.

The Uniform CPA Examination is computer-based and consists of four parts:<sup>39</sup>

- Auditing and Attestation (AUD)
- Business Environment and Concepts (BEC)
- Financial Accounting and Reporting (FAR)
- Regulation (REG)

Every section of the examination includes a combination of multiple-choice questions and task-based simulations: the BEC section also includes three written communication tasks.<sup>40</sup> Candidates have four hours to complete each section of the examination.

There are four “examination windows” each year:<sup>41</sup>

- January 1 through March 10
- April 1 through June 10
- July 1 through September 10
- October 1 through December 10

Candidates may take the sections of the examination in any order. In Colorado, candidates must pass all four sections of the examination within an 18-month period.<sup>42</sup> The 18-month period is calculated from the date candidates pass their first examination section.

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<sup>39</sup> NASBA. *CPA Exam FAQ*. Retrieved on July 9, 2018, from <https://nasba.org/exams/cpaexam/examfaq/>

<sup>40</sup> NASBA. *CPA Exam FAQ*. Retrieved on July 9, 2018, from <https://nasba.org/exams/cpaexam/examfaq/>

<sup>41</sup> NASBA. *CPA Exam FAQ*. Retrieved on July 9, 2018, from <https://nasba.org/exams/cpaexam/examfaq/>

<sup>42</sup> 3 CCR § 705-1-3.6(A)(3), State Board of Accountancy Rules.

First-time test takers must pay a \$150 application fee as well as an examination fee of \$208.40 per section. Repeat test takers must pay a \$75 registration fee and the \$208.40 examination fee for each section they are retaking.<sup>43</sup>

The examination is administered at Prometric testing centers. There are four testing sites in Colorado—in Greenwood Village, Longmont, Colorado Springs, and Grand Junction—but Colorado applicants may also take the examination at any out-of-state Prometric testing center that offers the examination.

Table 5 illustrates, for the five fiscal years indicated, the number of examinations administered, the number of candidates who passed, and the pass rates, both overall, and for each of the four parts of the examination. The overall national pass rate for the examination is included for the sake of comparison.

**Table 5**  
**Uniform CPA Examinations Pass Rates for First-Time Test Takers**

<b>Fiscal Year</b>	<b>Number of Written Examinations Given</b>	<b>Colorado Pass Rate (%)</b>	<b>National Pass Rate (%)</b>
<b>12-13</b>	<b>6,281 (3,205 passed)</b>	<b>51.0</b>	<b>49.1</b>
		AUD=46.7 BEC=55.5 FAR=53.0 REG=50.1	
<b>13-14</b>	<b>6,136 (3,225 passed)</b>	<b>52.6</b>	<b>49.2</b>
		AUD=48.1 BEC=59.8 FAR=50.8 REG=52.4	
<b>14-15</b>	<b>6,504 (3,302 passed)</b>	<b>50.8</b>	<b>48.8</b>
		AUD=48.4 BEC=53.4 FAR=50.9 REG=50.7	
<b>15-16</b>	<b>4,444 (2,368 passed)</b>	<b>53.3</b>	<b>49.1</b>
		AUD=51.3 BEC=57.6 FAR=53.3 REG=51.4	
<b>16-17</b>	<b>4,247 (2,293 passed)</b>	<b>54.0</b>	<b>47.6</b>
		AUD=52.1 BEC=59.8 FAR=52.2 REG=51.4	

The decrease in the number of examination candidates from fiscal year 14-15 to 15-16 corresponds to Colorado’s transition from requiring 120 credit hours of education for

<sup>43</sup> NASBA. *Colorado*. Retrieved on July 9, 2018, from <https://nasba.org/exams/cpaexam/colorado/>

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licensure to requiring 150 hours. A large number of applicants took the examination and sought licensure before the more stringent education requirement went into effect on July 1, 2015.

The overall pass rates for Colorado candidates remain consistently higher than the national average.

## Complaints/Disciplinary Actions

Anyone may file a complaint against a licensed CPA or registered public accounting firm. Division staff reviews each complaint to determine whether the person or business complained against (the respondent) might have violated the law. If staff determines that the complaint is within the Board's jurisdiction, staff sends a copy of the complaint to the respondent, giving the respondent 30 days to respond.

Table 6 shows, for the five fiscal years indicated, the number of complaints received against licensed CPAs and registered public accounting firms.

**Table 6**  
**Complaints Received**

Fiscal Year	CPAs	Accounting Firms
12-13	198	28
13-14	106	29
14-15	131	50
15-16	129	21
16-17	89	14

There was a relatively high number of complaints in fiscal year 12-13 due to a considerable number of licensees reporting, during the renewal process, that they failed to meet the continuing education requirement. In response to this spike in self-reported non-compliance, the Board changed its renewal attestation language regarding continuing education and modified the continuing education reporting period, which led to increased compliance with the requirement in subsequent years.

Table 7 shows the nature of the complaints received against CPAs and public accounting firms for the five fiscal years indicated.

**Table 7  
Nature of Complaints**

	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
<b>Complaints Against Certified Public Accountants (CPAs)</b>					
Unlicensed	19	59	31	68	30
Not meeting continuing education requirements	111	0	0	0	0
Unauthorized use of CPA title	97	121	172	150	98
Providing services without an active license	72	71	63	43	38
Lack of general standards of competence/compliance	51	54	52	233	108
Violations of a rule of professional conduct	35	27	78	25	14
Fraud or negligence in practice of accounting	11	16	20	104	57
<b>Complaints Against Public Accounting Firms</b>					
Failure to register corporations of CPAs	38	37	14	19	18
Failure to meet CPA partnership requirements	25	36	32	47	27
<b>TOTAL</b>	<b>459</b>	<b>421</b>	<b>462</b>	<b>689</b>	<b>390</b>

Because a single complaint can contain multiple allegations, the totals in this table are considerably higher than the totals in the “Complaints Received” table above. Unauthorized use of the CPA title remains the most common cause for complaint, followed by providing services without an active license.

Once a respondent has responded to the complaint, Division staff forwards the complaint and the respondent’s response (if any) to the Board for its review. At this stage, the Board may vote to investigate the complaint further, or to resolve it by dismissing it outright, dismissing it via a confidential letter of concern, or by taking disciplinary action.

Table 8 shows the final actions taken against CPAs and public accounting firms for the five fiscal years indicated.

**Table 8  
Final Agency Actions**

Type of Action	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Revocations	21	6	2	4	9
Suspensions	4	0	0	0	1
Revocation/suspension held in abeyance or stayed	0	0	0	0	0
Stipulations	229	66	45	50	49
Letters of Admonition	3	4	2	0	1
Other, including cease and desist orders, citations, injunctions, and others	1	4	2	0	8
<b>Total Disciplinary Actions</b>	<b>258</b>	<b>80</b>	<b>51</b>	<b>54</b>	<b>68</b>
Dismissals	44	29	20	57	45
Letters of Concern	6	27	133	24	10
<b>Total Dismissals</b>	<b>50</b>	<b>56</b>	<b>153</b>	<b>81</b>	<b>55</b>

As noted above, there were an unusually high number of complaints in fiscal year 12-13 due to a large number of licensees failing to meet the continuing education requirement. Consequently, there were a large number of stipulations in that year.

Table 9 shows the fines the Board collected for the five fiscal years indicated.

**Table 9  
Fines Collected**

Fiscal Year	Total Dollars Collected
12-13	\$154,704
13-14	\$29,805
14-15	\$51,525
15-16	\$55,600
16-17	\$36,110

The high number of fines in fiscal year 12-13 is also attributable to the high number of continuing education-related complaints in that year.

### **Collateral Consequences – Criminal Convictions**

Section 24-34-104(6)(b)(IX), C.R.S., requires the Colorado Office of Policy, Research and Regulatory Reform to determine whether the agency under review, through its licensing processes, imposes any disqualifications on applicants or registrants based on past



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criminal history, and if so, whether the disqualifications serve public safety or commercial or consumer protection interests.

The Board can deny an application or take disciplinary action against someone who has been convicted of, or entered a plea of nolo contendere or guilty to, a felony<sup>44</sup> or any other crime relating to dishonesty or fraud.<sup>45</sup> In consideration of such criminal history, the Board must comply with section 24-5-101, C.R.S, which provides that a felony conviction cannot in and of itself disqualify a person from receiving a license or certification.<sup>46</sup>

From fiscal year 12-13 to 16-17, the Board did not deny any applicants due to a criminal history.

During that period, the Board disciplined just one CPA based on criminal history: it revoked the license of a CPA who pled guilty in federal court to felony offenses of wire fraud and subscribing to a false federal income tax return. These violations are reasonably related to the practice of certified public accounting and the revocation appears be an appropriate use of the Board's power.

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<sup>44</sup> § 12-2-123(1)(e), C.R.S.

<sup>45</sup> § 12-2-123(1)(f), C.R.S.

<sup>46</sup> § 12-2-123(2), C.R.S.

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## Analysis and Recommendations

### **Recommendation 1 – Continue the State Board of Accountancy for 11 years, until 2030.**

Public accountants provide a wide array of professional services to individuals and businesses, including giving tax advice and preparing tax returns; maintaining, reviewing, and reporting on financial records; and providing consulting and financial planning services. Many Coloradans hire and rely upon public accountants for these services and are directly affected by them. However, public accounting is a profession that is largely unregulated.

Recall that a critical accounting function is to provide “assurance” to lenders, shareholders, and other interested parties as to whether financial statements are accurate and free of material misstatement. The highest level of assurance, the audit, involves a person opining, as an independent auditor, on the financial position of a business or the reliability of its financial records. The Colorado General Assembly determined that only certified public accountants (CPAs) may provide this function. It is the only accounting function requiring a CPA license.

The State Board of Accountancy (Board), housed within the Division of Professions and Occupations of the Department of Regulatory Agencies (Division and DORA, respectively) is vested with the authority to regulate Colorado CPAs and the public accounting firms that employ them.

The central question of a sunset review is whether such regulation is necessary to protect the public health, safety, and welfare.

In general, the public is more familiar with unregulated public accounting services—most notably, the preparation of federal and state tax returns—than it is with the audit function. But while the amount of a federal tax refund might have a more direct effect on the average person than an audit of a major global corporation, audits have tangible real-world consequences.

The information revealed in an audit can affect a company’s ability to borrow money to invest in infrastructure. It can affect a company’s stock price, which can in turn affect global financial markets and an individual’s retirement account. To understand the importance of the audit to the overall economy, consider the Enron scandal of the early 2000s, wherein fraudulent accounting practices led to the collapse of a major global accounting firm and millions of dollars in losses.

An audit is a comprehensive account of a company’s financial health. It takes considerable subject matter expertise to sift through financial records, determine whether such records follow generally accepted accounting principles, and prepare an objective evaluation of a company. The public cannot be reasonably expected to have such expertise, and must rely on the expertise of the independent auditor. It is

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reasonable for the government to ensure that CPAs and the firms that employ them are competent to provide these services. Therefore, regulation is justified.

The Board requires CPAs to meet rigorous experience and education standards and pass a four-part examination to qualify for a CPA license. These requirements assure CPAs possess the knowledge and skills to practice competently. Further, the Board requires CPAs and public accounting firms to undergo periodic peer review, a process in which an independent CPA evaluates the accounting work of another licensed CPA or public accounting firm. Peer review provides impartial evaluation of the individual or firm's accounting practices and assures they comply with generally accepted standards. The Board fields complaints against licensed CPAs and public accounting firms and takes disciplinary actions against those found to have harmed the public. With all of these activities, the Board serves to protect the public interest.

For these reasons, the General Assembly should continue the Board for 11 years, until 2030. This extension period is commensurate with the scope of the recommendations contained in this report.

**Recommendation 2 – Make the use of fraudulent, coercive, or dishonest practices, or the demonstration of incompetence or untrustworthiness, grounds for discipline.**

Section 12-2-123(1), Colorado Revised Statutes (C.R.S.), establishes the grounds for disciplinary action against CPAs. There are several provisions intended to address fraudulent or dishonest conduct: the Board may take discipline against a CPA for obtaining a CPA license fraudulently, for exercising fraud or deceit in the practice of accounting, for having been convicted of any crime relating to dishonesty or fraud, and for using false or deceptive advertising.

However, there are certain instances of fraudulent or dishonest conduct that the Board lacks authority to investigate or pursue. Generally, fraudulent, dishonest conduct can only become the basis for disciplinary action if it is either directly related to the practice of certified public accounting or if it results in a criminal conviction. There are instances where it would be appropriate for the Board to be able to use other types of conduct as the grounds for disciplinary action.

For example, consider a hypothetical case of a CPA facing a forgery allegation. A jury finds the prosecutor failed to meet the high standard of evidence required in a criminal trial—where the prosecutor must prove the charges beyond a reasonable doubt—and acquits the CPA. Following the acquittal, the forgery victim files suit against the CPA in civil court, and wins. The Board would not be able to consider such lawsuit as grounds for disciplinary action.

Similarly, if a district attorney lacked evidence to bring criminal charges against a CPA accused of misappropriation of funds, but the wronged party was awarded a judgment in civil court to force the CPA to repay such funds, the Board would be unable to consider the action.

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While there have been few actual instances of the Board receiving these types of complaints, there have been a handful of egregious cases where the Board has lacked the precise statutory authority to take disciplinary action.

CPAs have significant access to personal data and financial records that could be easily misused. Such misuse can cause significant harm, such as financial losses and identity theft. The Board has a responsibility to protect the public from CPAs with documented histories of dishonesty and untrustworthiness and should be empowered to investigate these cases and take disciplinary action if it deems necessary.

Insurance producers, which have similar access to sensitive data, are subject to discipline from the Commissioner of Insurance if they are found to have used “fraudulent, coercive, or dishonest practices or demonstrate[ed] incompetence, untrustworthiness, or financial irresponsibility in [Colorado] or elsewhere.”<sup>47</sup>

Colorado CPAs with a demonstrated history of dishonesty or untrustworthiness can cause harm to Colorado consumers, but the Board currently has limited recourse to take action against them. Therefore, the General Assembly should add language similar to the language in the insurance producers’ statute to the grounds for disciplinary action listed at 12-2-123, C.R.S.

**Recommendation 3 – Clarify that foreign corporations operating a Colorado office must register with the Board and add “limited liability partnership” to the list of business types.**

Generally, public accounting firms employing CPAs that provide public accounting services in Colorado must register with the Board, but there are exceptions. Section 12-2-121(2)(a), C.R.S., permits:

a foreign partnership, corporation, limited partnership, limited liability limited partnership, or limited liability company [to] engage in the practice of accountancy in this state without registering with the Board.

This provision seems to exempt all foreign companies from the registration requirement. While it is reasonable to exempt foreign companies that conduct only incidental business in Colorado from the registration requirement, exempting companies that operate a Colorado office or routinely conduct business in the state could pose a risk to the public. Under the current wording, if a foreign company were found to have engaged in behavior that harmed Colorado citizens, the Board would arguably lack jurisdiction.

To assure that the Board has jurisdiction over foreign public accounting firms, this language should be revised to mirror the exemption for individual CPAs who hold a foreign credential. Section 12-2-121(2)(b)(I), C.R.S., allows individuals holding a recognized public accounting credential from another country to practice in the state

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<sup>47</sup> § 10-2-801(1)(i), C.R.S.

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without obtaining a CPA license provided such practice is “incident to his or her regular practice outside this state.” In other words, a foreign-credentialed person who conducts the majority of his or her work outside Colorado can conduct occasional business in Colorado without having to obtain a CPA license.

The General Assembly should add similar language to the exemption for foreign public accounting firms, providing that such firms are exempt from the registration requirement provided that their practice in Colorado is incident to its regular practice outside the state. Further, the statute should explicitly state that foreign companies that operate a Colorado office must register with the Board.

In addition, the General Assembly should add “limited liability partnership” to the list of business types in this section. It appears to have been unintentionally omitted.

These changes would ensure that the Board has jurisdiction over public accounting firms whose practices might harm Colorado citizens, without subjecting foreign companies doing incidental business in Colorado to overly burdensome regulatory requirements.

**Recommendation 4 – Allow graduates of unaccredited programs to petition the Board to determine whether their education is substantially equivalent.**

Generally, an applicant must have graduated from an accredited college or university in order to qualify for a CPA license. However, occasionally a graduate of an unaccredited college or university might seek a license. Board Rule 2.2(C) allows the Board to:

deem coursework obtained from a non-accredited college or university as obtained from an accredited baccalaureate granting college if the applicant demonstrates that the coursework would be acceptable for credit towards a baccalaureate degree or higher degree at an accredited baccalaureate granting college.

The Board may also require an applicant to submit his or her transcripts to a “generally recognized academic credential evaluation service”<sup>48</sup> to determine whether the coursework is acceptable.

While these rules provide a framework for the Board to address graduates of non-accredited schools, there is no statutory provision that addresses this area.

The statutes governing several other Division-regulated professions—including physicians,<sup>49</sup> physical therapists,<sup>50</sup> and optometrists<sup>51</sup>—contain provisions allowing their respective boards to deem the education provided by a non-accredited program substantially equivalent to that provided by an accredited program.

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<sup>48</sup> 3 CCR § 705-1-2.2(D)(2), State Board of Accountancy Rules.

<sup>49</sup> § 12-36-102.5(3)(b), C.R.S.

<sup>50</sup> § 12-41-107(1)(a)(II), C.R.S.

<sup>51</sup> § 12-40-108(1)(b), C.R.S.

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Creating a statutory provision allowing the Board to grant an education waiver to graduates of non-accredited programs whose education is substantially equivalent would provide clarity for CPA applicants while still ensuring CPAs meet minimum education standards. Therefore, the General Assembly should grant graduates of unaccredited education programs the ability to petition the Board to determine whether their education is substantially equivalent.

**Recommendation 5 – Permit Chartered Global Management Accountants who are not CPAs to use the title “chartered global management accountant” and the abbreviation CGMA, provided they do not purport to provide services that require a CPA license.**

Section 12-2-115(3)(b), C.R.S., expressly prohibits unlicensed CPAs from:

Assum[ing] or us[ing] any title or designation using the word “certified,” “registered,” “chartered,” ...in conjunction with the word accountant or auditor or any abbreviation thereof or any title, designation, or abbreviation likely to be confused with “certified public accountant” or the abbreviation “C.P.A.,” including the terms “chartered accountant” and “certified accountant”[.]

The purpose of this provision is to prohibit people who do not hold a CPA license from misleading the public. However, the provision may also unnecessarily prohibit the practice of non-CPAs who hold a relatively new accounting designation: chartered global management accountant (CGMA).

The AICPA partnered with the Chartered Institute of Management Accountants (CIMA), a global professional organization, in 2011 to create the CGMA designation. CGMAs do not provide accounting services to the general public. Rather, they work within companies as budget analysts, chief financial officers, and controllers. Their duties include assisting companies in financial planning, conducting risk management, and evaluating global markets.

Initially, the AICPA’s CGMA designation was only available to licensed CPAs, but in October 2015, the AICPA’s governing council voted to permit non-CPAs to obtain the CGMA credential. While CGMAs do not offer accounting services to the public, allowing non-CPAs to hold the designation could create confusion for the public and also brings designation-holders into conflict with Colorado’s title protection provisions.

It is unknown how many non-CPA CGMAs there are: the number is likely low, but might increase over time. Even so, CGMAs provide highly specialized services within companies. They do not serve the public. Any CGMA offering CPA services would be in violation of the accountancy laws and subject to Board discipline. The risk to the public is minimal.

The General Assembly should permit non-CPAs to use the accounting designation “CGMA” or the “chartered global management accountant” title provided such

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designation is conferred by a bona fide nationally recognized accounting organization such as AICPA or CIMA and does not purport to confer the right to perform audit, attest or compilation services.

To safeguard against the misleading use of the CGMA title, the General Assembly should add language to the “Unlawful Acts” section of the statute at 12-2-120, C.R.S. Such language should prohibit people who possess the CGMA title but who do not have a CPA license from offering audit or attest services for the public, except under the supervision of a CPA operating within a registered public accounting firm; and from establishing, participating in, or promoting a business that uses the CGMA title in its marketing but is not a registered public accounting firm. The Board would retain its power to prohibit the use of any accounting designation that falls outside these criteria.

With these provisions in place, allowing CGMAs who do not possess a CPA license to use the CGMA title is unlikely to cause harm to the public. The Board would retain jurisdiction over non-CPA CGMAs who fail to practice within the boundaries defined in statute. Making these changes would comport with the second sunset criterion that regulation be the least restrictive consistent with the public interest.

**Recommendation 6 – Clarify section 12-2-123(1)(j), C.R.S., to accurately reflect the Board’s jurisdiction.**

Section 12.2-123(1)(j), C.R.S., allows the Board to take disciplinary action against a CPA for,

providing public accounting services to the public for a fee without an active [license] of certified public accountant or a valid registration or acting as a member, partner, or shareholder of a partnership or professional corporation registered pursuant to section 12-2-117.

This provision is unclear in two respects.

First, it implies that a license is necessary to provide public accounting services, but unlicensed public accountants can provide nearly all the services CPAs can. The General Assembly should revise this provision to state that the Board can take disciplinary action against unlicensed individuals or firms if they provide services that require a CPA license.

Second, the provision seems to allow the Board to take disciplinary action against a person simply for acting as a member, partner or shareholder of a public accounting firm. This clearly could not be the original intention of this provision.

The law requires one partner, shareholder, or member to hold a Colorado CPA license;<sup>52</sup> it also requires the resident manager of a public accounting firm’s Colorado office to hold a Colorado license.<sup>53</sup> The General Assembly should revise section 12-2-123(1)(j),

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<sup>52</sup> § 12-2-117(1)(a), C.R.S.

<sup>53</sup> § 12-2-117(1)(e), C.R.S.

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C.R.S., to permit the Board to take disciplinary action against a person acting as a resident manager of a registered public accounting firm if they do so without an active CPA license.

These changes would more accurately reflect the Board’s jurisdiction.

### **Recommendation 7 – Allow CPAs to request inactive status via other Board-approved methods.**

Section 12.2-122.5(1), C.R.S., allows CPAs to request that the Board place their licenses on inactive status. The current wording compels CPAs to submit such a request via “written notice by first-class mail.”

To expedite and modernize the process, the General Assembly should revise this provision to allow CPAs to request inactive status in any form or manner designated by the Board. This language would be consistent with the Dental Practice Act,<sup>54</sup> the Medical Practice Act,<sup>55</sup> and the Nurse Practice Act.<sup>56</sup>

### **Recommendation 8 – Make technical changes to the law.**

The law contains sections that can be combined for the sake of clarity, as well as a typographical error. These changes are technical in nature, meaning they have no substantive impact on the regulation of CPAs or public accounting firms.

The General Assembly should make the following technical changes:

- **Sections 12-2-115.5 and 12-2-122.5, C.R.S.** These two sections, which address retired and inactive status CPAs, respectively, should be combined into a single section. This would make it easier for people to find information on alternative statuses.
- **Section 12-2-126(1)(b)(II)(A), C.R.S.** Add a comma after “merit.”

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<sup>54</sup> § 12-35-122(1), C.R.S.

<sup>55</sup> § 12-36-137(1), C.R.S.

<sup>56</sup> § 12-38-118.5(1), C.R.S.