



WEST VIRGINIA BOARD OF ACCOUNTANCY

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August 21, 1964

*absolute
valid Nov 1, 1964 to
May 25, 1982*

Joe F. Burdette, Esq.
Secretary of State
State of West Virginia
The Capitol
Charleston, West Virginia

Dear Sir:

Enclosed are two copies of regulations issued by this Board regarding its powers and duties relating to the examination of candidates for the certificate of certified public accountant, the registration of public accountants, the regulation of the practice of public accounting by licensed certified public accountants and public accountants, under the provisions of Article 9, Chapter 30 of the West Virginia Code.

These regulations amend and supersede all previous rules and regulations adopted and promulgated by this Board. These regulations are designated Series I of Chapter 30-9 of the West Virginia Administrative Regulations.

I hereby certify that the attached regulations are true and accurate copies of official regulations adopted by this Board on August 14, 1964.

Very truly yours,

WEST VIRGINIA BOARD OF ACCOUNTANCY

Harry R. Howell
President

HRH:jws
Encl.

FILED IN THE OFFICE OF
JOE F. BURDETT
SECRETARY OF STATE
THIS DATE 8/24/64

FILED IN THE OFFICE OF
JOE F. BURDETT
SECRETARY OF STATE
THIS DATE 8/24/64

Adm. Reg. 30-9
Series I

BOARD OF ACCOUNTANCY RULES AND REGULATIONS
AND RULES OF PROFESSIONAL CONDUCT

FILING OF ADMINISTRATIVE REGULATIONS

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FILED IN THE OFFICE OF
JOE F. BURDETT
SECRETARY OF STATE
THIS DATE 8/24/64

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
Board of Accountancy

Chapter 30-9
Series I
(1964)

Subject: Board Rules and Regulations and Rules of Professional Conduct

Section 1. General

1.01. Scope.--These regulations establish general rules for the regulation of the practice of public accounting, the registration of public accountants, and the examination of applicants for the certified public accountant certificate.

1.02. Authority.--These regulations are issued under authority of West Virginia Code, ch. 30, art. 9, section 1.

1.03. Effective Date.--These regulations are promulgated on August 14, 1964, and become effective November 1, 1964. All prior rules and regulations are hereby repealed.

1.04. Filing Date.--These regulations were filed in the office of the Secretary of State on August 19, 1964.

1.05. Certification.--These regulations are certified authentic by the Secretary of State by certificate number

Section 2. Board Organization

2.01. Board Name, Powers and Duties.--This Board shall be known as the West Virginia Board of Accountancy. The Board is charged with the duty of administering the Act under which it was established, and it is its duty to make and enforce all necessary rules and regulations, not inconsistent with the Act, for the examination, certification, and registration of public accountants, and for the general practice of public accounting.

2.02. Officers.--At the first meeting of the Board after July 1 of each year, the Board shall elect a president, a vice president, a secretary and an assistant secretary, from among its members. All officers shall be elected for a term of one year and each shall continue in office until his successor has been elected and qualified or until his term as a member of the Board shall expire.

2.03. Meetings.--The Board shall meet in Charleston, or elsewhere in West Virginia as it may elect, at least twice each year, and shall remain in session as long as necessary in order to transact its business. Meetings shall be held upon call by the President of the Board or by joint call of any three of its members, and may be held at any reasonable time or place designated in the notice of the meeting.

2.04. Quorum.--A majority of the Board shall constitute a quorum for the transaction of the general business of the Board, unless otherwise required in proceedings relating to revocation or suspension of certificate or registration, or other major issue.

In matters relative to the examination for and granting of certificates of certified public accountant, only Board members holding C.P.A. certificates shall have the right to vote.

2.05. Office and Employees.--The Board shall establish an office in the City of Charleston, or elsewhere in West Virginia, if it is deemed necessary and desirable, to transact the day-to-day business of the Board and for the maintenance of its files and records. The Board shall designate one of its principal officers as the executive officer in charge of its office and shall arrange his compensation in the form of a per diem allowance or as salary. The executive officer, with the approval of the Board, may employ such assistance as may be necessary for the efficient performance of his duties.

2.06. Records.--The Board shall keep records of all proceedings and actions by and before the Board, and in any proceeding in court, civil or criminal, arising out of or founded upon any provisions of the Accountancy Law, copies of said

2.06. Records. (contd)

records certified as correct under the seal of the Board shall be prima facie evidence of the matters recorded in said records, in accordance with the provision of section 11 of article 1.

2.07. Forms.--The Board shall designate and cause to have prepared such forms as it shall deem necessary or expedient to the discharge of its duties, the convenience of applicants for registration or examination, and the compilation of proper records.

Section 3. Requirements for Examination of Certified Public Accountant Applicants

3.01. Citizenship.--Applicant must be a citizen of the United States or one who has duly declared his or her intention to become such citizen. The Board will in every case require reasonable proof of such citizenship, or of the applicant's alleged intention to attain such citizenship.

3.02. Domicile and Place of Business.--Every applicant must, at the time of filing his or her application, either be domiciled in the State of West Virginia or have a place of business therein. See definitions in Section 7.

3.03. Age.--Every applicant must be over the age of twenty-one (21) years. Birth certificates may be required if other proof of age is not furnished.

3.04. Moral Character.--The Board will require reasonable proof of good moral character. In the absence of any unusual circumstances, a statement or letter from not less than five reputable citizens of West Virginia will be considered adequate. The Board shall judge as to such character and shall not be required to divulge the reason for its decision.

3.05. Education.--An applicant is required by the Accountancy Law to be a graduate of a four-year high school and to hold a degree or certificate conferred by a college, university or other educational institution approved by the Board, with a major in accounting, or what the Board determines to be the equivalent of an accounting major, including related courses in all areas of business administration. See Section 8 for the Board's interpretation. Persons duly registered as public accountants prior to January 1, 1960, are not required to have a college degree.

Section 4. Registration of Public Accountants

4.01. Original registration.--The Accountancy Law of 1959 provided for the registration as public accountants of all persons who were engaged as principals or staff accountants in the practice of public accounting in West Virginia and who made application for such registration before January 1, 1960.

4.02. Continuing registration.--Since January 1, 1960, and continuing to January 1, 1967, applicants for registration as public accountants are required to be eligible to enter the examination for certified public accountant.

4.03. Applications for registration.--The Board requires the submission of an application for examination for certified public accountant to prove the applicant's eligibility for registration together with an application for registration as a public accountant.

4.04. Fee for registration.--A fee of \$25.00 is required with the application for registration as a public accountant. The fee for the C.P.A. examination will not be required until the applicant desires to enter the examination.

Section 5. Reciprocity with other jurisdictions.

5.01. Waiver of C.P.A. examination.--The Board may, in its discretion, waive the examination of, and issue a certificate as "certified public accountant" to any person who submits, on the form or in the manner prescribed by the Board, satisfactory evidence (1) that he holds a certificate as certified public accountant issued under the laws of another state, territory, or the District of Columbia as the result of a written examination comparable to those given by this Board, and

5.01. Waiver of C.P.A. examination.--(contd)

(2) that he is either a resident of West Virginia or has a place of business therein or is an employee therein, and (3) that he possesses all other qualifications required for eligibility for the certified public accountant examination.

5.02. Fee.--The Board requires a fee of \$45.00 for processing the application for a reciprocal certificate and issuing the certificate.

5.03. Practice by non-resident.--A certified public accountant or registered public accountant holding a certificate, license or permit issued by the accountancy board or commission of another state or jurisdiction may temporarily practice in this state on professional business incident to his regular practice; provided, however, that he shall in such practice be governed by regulations and rules of conduct promulgated by the West Virginia Board of Accountancy and shall pay the required fee for a current permit to practice, as provided in Section 6.01.

Evidence of a violation of any regulation or rule of professional conduct shall first be submitted to the accountancy board or commission of the state from which the accountant holds his certificate or license, and proceedings shall be instituted by this Board only in the event that such board or commission fails or is unable to take appropriate action.

Section 6. Permits to Practice

6.01. Annual permits to practice.--Each certified public accountant who engages in practice in West Virginia and each public accountant who is registered under the Accountancy Law of 1959 and engages in practice in West Virginia must secure a permit to practice public accounting in West Virginia during each fiscal year ending June 30. This provision shall also apply to non-resident practitioners who qualify under Section 5.03

The annual fee of \$10.00 from each practitioner is payable on or before July 1.

6.02. Publication of Roster.--As soon as practicable after July 1 of each year the Board will publish a roster showing the names and addresses of all certified public accountants and public accountants who hold permits to practice public accounting within the State during the fiscal year beginning on that date.

Section 7. Domicile and Place of Business

7.01. Domicile Defined.--"Domicile", as used herein, is construed by the Board as being the situs of the applicant's permanent home, even though he or she may, at the time of making application, be residing elsewhere. The place of applicant's domicile is a question of fact in each case, and is accomplished only by concurrence of the actual residence coupled with the intent to make such residence the applicant's domicile. The Board will endeavor to determine applicant's domicile by reference to all the facts as submitted.

7.02. Place of Business.--"Place of business" is construed by the Board to mean the actual location within the State of West Virginia where applicant was, at the time of making application, actually engaged in a lawful business.

Section 8. Educational Requirements for Certified Public Accountant Examination and Certificate

8.01. Board's interpretation of Requirements.--The Board will approve and recognize any educational institution with educational standards in accounting, commerce, general education, and training substantially equivalent to those for an accounting major in the College of Commerce of West Virginia University, provided, the institution has attained membership in the American Association of Collegiate Schools of Business, or is a four year degree granting institution authorized to grant a major in accounting, in which at least 50% of the total credits presented for the degree are in areas other than Commerce and Economics and the remaining credits include adequate coverage in introductory accounting, intermediate accounting, managerial accounting, advanced accounting, cost accounting, auditing, systems, business law, and related areas.

Section 9. Applications for examination of certified public accountant

9.01. Application form and filing.--Applicants must use the form prescribed and furnished by the Board. All questions must be answered and all required information and data submitted with the application. The application should be signed and acknowledged before a notary public or other authorized official. It should be filed in the office of the West Virginia Board of Accountancy at least three months prior to the dates of the examination which the applicant desires to enter.

9.02. Fee, photographs.--A fee of \$40.00 payable to the West Virginia Board of Accountancy must accompany the application. If the application cannot be approved, the fee will be returned to the applicant. If the application is approved no refund of the fee will be made except for good cause. Two recent photographs, approximately 3-1/2 by 3-1/2 inches showing head and shoulders, and signed and dated on the reverse side, must be furnished.

9.03. References.--Letters supporting applicant's employment, education, age, citizenship, domicile or related matters should be submitted with the application. Personal references prescribed in section 3.04 should be listed in the application and, if practicable, the persons listed should be requested to submit directly to the Board a statement as to the moral character and personal attributes of the applicant.

Section 10. C.P.A. Examination

10.01. Time and place, notice and procedure.--During the months of May and November of each year the Board will conduct an examination for qualified applicants whose applications have been approved by the Board. The applicants accepted as candidates for examination will be notified in writing to the address stated in their applications of the exact place of the examination and of the dates and hours at which each subject will be given. Unless otherwise determined these examinations will be held in the City of Charleston, West Virginia.

All examinations shall be written in pencil or in ink on paper provided by the Board. The examination papers may not be taken away and shall remain the property of the Board. All examination papers shall be preserved for a period of two years after each examination.

10.01. Time and place, notice and procedure (contd)

Candidates for examination shall be given a card bearing a number and after being filled out the card shall be handed to the examiners at the beginning of the examination. The number is for identification only and shall be used on all papers submitted by the candidate. If any candidate shall sign his name or write his initials or other identification marks upon his examination papers, such action shall be considered as misconduct and shall be sufficient cause for rejecting his papers.

10.02. Examination subjects, grading, re-examinations.--

Examinations will include questions or problems on the following subjects:

- (1) Accounting Practice
- (2) Theory of Accounts
- (3) Auditing
- (4) Commercial Law

The candidate will be required to make a grade of not less than 75% in each subject before he will be declared to have passed the examination.

10.02. Examination subjects, grading, re-examinations (contd)

A candidate who fails to pass all subjects, but who receives a passing grade on one or more subjects, shall receive a conditional credit for such subject or subjects. Such conditional credit shall remain in force for the three years next succeeding the examination at which the first conditional credit was earned, and if the candidate receives passing grades in the remaining subjects within the said three years he shall be deemed to have successfully passed. In the event of his failure thus to pass the examination within the above prescribed period, he will be considered to have failed the examination. Such a candidate may, however, thereafter make a new application, which shall be reviewed by the Board as in the case of any new applicant.

In the case of the failure on the part of any applicant to attend the examination on the date specified by the Board, or to pass a satisfactory examination, the applicant may appear at a subsequent examination for re-examination, within a period of one year from the date of the first examination, without payment of an additional fee. Subsequent re-examinations may be taken, within the limits prescribed above, upon the payment of a fee of \$20.00 for each re-examination.

The fee for the issuance of a C. P. A. certificate shall be five dollars.

Section 11. Proceedings for Revocation or Suspension of Certificate or Registration.

11.01. Hearing before Board.--West Virginia Code, chapter 30, article 1, section 7, prescribes the procedure for a hearing of charges against the holder of a certificate of certified public accountant or registration as public accountant. In brief, it requires that a statement of the charges, and a notice of the time and place of hearing shall be served at least thirty days prior to the hearing; provides for the appearance of the accused with witnesses, in person, by counsel, or both; action by the Board; stenographic report of the proceeding; written report of the Board's findings, copy of which shall be filed with the Secretary of State.

11.02. Cause of Action by Board.--Article 9, section 9 of chapter 30 of the Code, provides that the Board may revoke or suspend any certificate of certified public accountant, any registration as public accountant, and may refuse to issue or refuse to renew any registration card, for any one or combination of the following causes:

11.02. Cause of Action by Board (contd)

(a) Fraud or deceit in obtaining a certificate as certified public accountant, or in obtaining registration under this article.

(b) Dishonesty, fraud or gross negligence in the practice of public accounting.

(c) Violation of a rule of professional conduct promulgated by the board under the authority granted by this article.

(d) Conviction of any felony, or any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States.

(e) Cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant or a public accountant by any other state, for any cause other than failure to pay an annual registration fee in such other state.

(f) Habitual drunkenness, addiction to the use of habit-forming drugs, mental incompetence or gross immorality.

(g) Unlawful practice of law as defined by the supreme court of appeals and/or statutory law of this state.

11.03. Review by Circuit Court and Supreme Court of Appeals.--Chapter 30, article 1, section 9 of the Code provides the method by which appeals from the Board's decision may be made by a person who has been refused a license or registration for any cause other than failure to pass the examination given by the Board, or whose certificate, license, registration or authority has been suspended or revoked. The judgment of the circuit court may be reviewed upon appeal in the supreme court of appeals.

NOTE. Sections 12 to 20 inclusive have been reserved for possible additions in the future.

Rules of Professional Conduct
Governing the Practice of Public Accounting
in West Virginia

General Statement

The reliance of the public and the business community on sound financial reporting and advice on business affairs imposes on the accounting profession an obligation to maintain high standards of technical competence, morality and integrity. To this end, a certified public accountant or public accountant shall at all times maintain independence of thought and action, hold the affairs of clients in strict confidence, strive continuously to improve his professional skills, observe generally accepted auditing standards and accounting principles, uphold the dignity and honor of the accounting profession, and maintain high standards of personal conduct.

In further recognition of the public interest and his obligation to the profession, a certified public accountant or public accountant shall comply with the following rules of ethical conduct, the enumeration of which should not be construed as a denial of the existence of others not specifically mentioned:

Section 21. Relations with Clients and Public

21.01. Expressions of Opinions.--Neither a certified public accountant or public accountant, nor a firm of which he is a partner, shall express an opinion on financial statements of any enterprise unless he and his firm are in fact independent with respect to such enterprise.

Independence is not susceptible of precise definition, but is an expression of the professional integrity of the individual. A certified public accountant or public accountant, before expressing his opinion on financial statements, has the responsibility of assessing his relationships with an enterprise to determine whether, in the circumstances, he might expect his opinion to be considered independent, objective and unbiased by one who had knowledge of all the facts.

A certified public accountant or public accountant will be considered not independent, for example, with respect to any enterprise if he, or one of his partners, (a) during the period of his professional engagement or at the time of expressing his opinion, had, or was committed to acquire, any direct financial interest or material indirect financial interest in the enterprise, or (b) during the period of his professional engagement, at the time of expressing his opinion or during the period covered by the financial statements, was

21.01. Expression of Opinions (contd)

connected with the enterprise as a promoter, underwriter, voting trustee, director, officer or key employee. In cases where a certified public accountant or public accountant ceases to be the independent accountant for an enterprise and is subsequently called upon to re-express a previously expressed opinion on financial statements, the phrase "at the time of expressing his opinion" refers only to the time at which the certified public accountant or public accountant first expressed his opinion on the financial statements in question. The word "director" is not intended to apply to a connection in such a capacity with a charitable, religious, civic or other similar type of nonprofit organization when the duties performed in such a capacity are such as to make it clear that the certified public accountant or public accountant can express an independent opinion on the financial statements. The example cited in this paragraph, of circumstances under which a certified public accountant or public accountant will be considered not independent, is not intended to be all-inclusive.

21.02. Professional Conduct.--A certified public accountant or a public accountant shall not commit an act discreditable to the profession.

21.03. Confidential Relationship.--A certified public accountant or public accountant shall not violate the confidential relationship between himself and his client or former clients.

21.04. Contingent Fees.--Professional service shall not be rendered or offered for a fee which shall be contingent upon the findings or results of such service. This rule does not apply to cases involving federal, state, or other taxes, in which the findings are those of the tax authorities and not those of the accountant. Fees to be fixed by courts, or other public authorities, which are therefore of an indeterminate amount at the time when an engagement is undertaken, are not regarded as contingent fees within the meaning of this rule.

Section 22. Technical Standards

22.01. Signing a Report.--A certified public accountant or public accountant shall not sign a report purporting to express his opinion as the result of examination of financial statements unless they have been examined by him, a member or an employee of his firm, a certified public accountant or public accountant of a state or territory of the United States or the District of Columbia, or a person holding a like certificate or license in a foreign country.

22.02. Representations in Financial Statements.--In expressing an opinion on representations in financial statements which he has examined a certified public accountant or public accountant may be held guilty of an act discreditable to the profession if:

(a) he fails to disclose a material fact known to him which is not disclosed in the financial statements but disclosure of which is necessary to make the financial statements not misleading; or

(b) he fails to report any material misstatement known to him to appear in the financial statement; or

(c) he is materially negligent in the conduct of his examination or in making his report thereon; or

(d) he fails to acquire sufficient information to warrant expression of an opinion, or his exceptions are sufficiently material to negative the expression of an opinion; or

(e) he fails to direct attention to any material departure from generally accepted accounting principles or to disclose any material omission of generally accepted auditing procedure applicable in the circumstances.

22.03. Use of Name on Purported Financial Statements.--

A certified public accountant or public accountant shall not permit his name to be associated with statements purporting to show financial position or results of operations in such a manner as to imply that he is acting as an independent public accountant unless he shall:

- (a) express an unqualified opinion; or
- (b) express a qualified opinion; or
- (c) disclaim an opinion on the statements taken as a whole and indicate clearly his reasons therefor; or
- (d) when unaudited financial statements are presented on his stationery without his comments, disclose prominently on each page of the financial statements that they were not audited.

22.04. Use of Name on Forecasts of Results of Future Transactions.--A certified public accountant or public accountant shall not permit his name to be used in conjunction with any forecast of the results of future transactions in a manner which may lead to the belief that the certified public accountant or public accountant vouches for the accuracy of the forecast.

Section 23. Promotional Practices

23.01. Advertising.--A certified public accountant or public accountant shall not advertise his professional attainments or services.

Publication in a newspaper, magazine or similar medium of an announcement or what is technically known as a card is prohibited.

A listing in a directory is restricted to the name, title, address and telephone number of the person or firm, and it shall not appear in a box, or other form of display or in a type or style which differentiates it from other listings in the same directory. Listing of the same name in more than one place in a classified directory is prohibited.

23.02. Solicitation.--A certified public accountant or public accountant shall not endeavor, directly or indirectly, to obtain clients by solicitation.

23.03. Competitive Bidding.--A certified public accountant or public accountant shall not make a competitive bid for a professional engagement.

23.04. Commissions, Brokerage, Fees.--Commissions, brokerage, or other participation in the fees or profits of professional work shall not be allowed directly or indirectly to the laity by a certified public accountant or public accountant.

23.04. Commissions, Brokerage, Fees.--(contd)

Commissions, brokerage, or other participation in the fees, charges or profits of work recommended or turned over to the laity as incident to services for clients shall not be accepted directly or indirectly by a certified public accountant or public accountant.

Section 24. Operating Practices

24.01. Use of Firm Name.--A firm or partnership, all the individual members of which have received from the Board a certificate as a certified public accountant, and all members of which hold current permits to practice, may describe itself as "Certified Public Accountants."

A firm or partnership, all of the individual members of which have been registered by this Board as public accountants, and all members of which hold current permits to practice, may describe itself as "Public Accountants".

A firm or partnership, consisting of certified public accountants and of public accountants, all members of which hold current permits to practice, shall describe itself as "Public Accountants".

24.02. Use of Name.--A certified public accountant or public accountant shall not allow any person to practice in his name who is not in partnership with him or in his employ.

24.03. Duties of Employees.--A certified public accountant or public accountant in his practice of public accounting shall not permit an employee to perform for the employer's clients any services which the certified public accountant or public accountant or his firm is not permitted to perform.

A certified public accountant or a public accountant who is an employee of a public accounting firm shall not participate in any public accounting engagements without express knowledge and approval of his employer.

24.04. Business Affiliations.--A certified public accountant or a public accountant, practicing as such, shall not engage in any business or occupation conjointly with that of a public accountant which is incompatible or inconsistent therewith.

24.05. Related Occupation.--A certified public accountant or a public accountant engaged directly or indirectly in an occupation in which he renders services of a type performed by public accountants, or renders other professional services, must observe the rules of professional conduct promulgated by this Board, in the conduct of that occupation.

24.06. Corporation Affiliations.--A certified public accountant or a public accountant shall not be an officer, director, stockholder, representative, or agent or any corporation engaged in the practice of public accounting in any state or territory of the United States or the District of Columbia.

Section 25. Relations with Fellow Public Accountants

25.01. Encroachment on Practice of Another.--A certified public accountant or a public accountant shall not encroach upon the practice of another certified public accountant or public accountant. He may furnish service to those who request it.

25.02. Referral Engagements.--A certified public accountant or a public accountant who receives an engagement for services by referral from another certified public accountant or public accountant shall not discuss or accept an extension of his services beyond the specific engagement without first consulting with the referring certified public accountant or public accountant.

25.03. Employment Ethics.--Direct or indirect offer of employment shall not be made by a certified public accountant or public accountant to an employee of another certified public accountant or public accountant without first informing such accountant. This rule shall not be construed so as to inhibit negotiations with anyone who of his own initiative or in response to public advertisement shall apply to a certified public accountant or public accountant for employment.

Rules 1 to 14 of Rules of Professional Conduct now in effect and on file with the Secretary of State are hereby repealed.