

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 816

By: Dugger

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5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Accountancy Act;
8 amending 59 O.S. 2011, Section 15.1A, as last amended
9 by Section 1, Chapter 327, O.S.L. 2019 (59 O.S. Supp.
10 2020, Section 15.1A), which relates to definitions;
11 modifying definitions; providing an effective date;
12 and declaring an emergency.

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

14 SECTION 1. AMENDATORY 59 O.S. 2011, Section 15.1A, as
15 last amended by Section 1, Chapter 327, O.S.L. 2019 (59 O.S. Supp.
16 2020, Section 15.1A), is amended to read as follows:

17 Section 15.1A. As used in the Oklahoma Accountancy Act:

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

20 2. "AICPA" means the American Institute of Certified Public
21 Accountants;

22 3. "Applicant" means an individual or entity that has made
23 application to the Board for a certificate, license, or permit and
24 said application has not been approved;

1 4. "Assurance" means independent professional services that
2 improve the quality of information, or its context, for decision
3 makers;

4 5. "Attest" means providing the following services:

- 5 a. any audit or other engagement to be performed in
6 accordance with the Statements on Auditing Standards
7 (SAS),
8 b. any review of a financial statement to be performed in
9 accordance with the Statements on Standards for
10 Accounting and Review Services (SSARS),
11 c. any ~~engagement~~ examination of prospective financial
12 information to be performed in accordance with the
13 Statements on Standards for Attestation Engagements
14 (SSAE), and
15 d. any engagement to be performed in accordance with the
16 Auditing Standards of the Public Company Accounting
17 Oversight Board (PCAOB), and
18 e. any examination, review or agreed upon procedures
19 engagement to be performed in accordance with
20 Statements on Standards for Attestation Engagements
21 (SSAE), other than the examination described in
22 subparagraph c of paragraph 34 of this section.

23 The statements on standards specified in this definition shall
24 be adopted by reference by the Board pursuant to rulemaking and
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1 shall be those developed for general application by recognized
2 national accountancy organizations, such as the AICPA, IFAC and the
3 PCAOB;

4 6. "Audit" can only be performed by an individual or entity who
5 is registered with the Board and holding a valid permit issued
6 pursuant to the Oklahoma Accountancy Act or an entity that is exempt
7 from registration under paragraph 3 of subsection A of Section 15.15
8 of this title, or an individual granted practice privileges under
9 Section 15.12A of this title, and means a systematic investigation
10 or appraisal of information, procedures, or operations performed in
11 accordance with generally accepted auditing standards in the United
12 States, for the purpose of determining conformity with established
13 criteria and communicating the results to interested parties;

14 7. "Board" means the Oklahoma Accountancy Board;

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

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

1 10. "Certified public accountant" means any person who has
2 received a certificate from the Board or other jurisdictions;

3 11. "Client" means the individual or entity which retains a
4 registrant, an individual granted practice privileges under Section
5 15.12A of this title, or a firm exempt from the permit and
6 registration requirements under Section 15.15C of this title and
7 which also is exempt from the registration requirement of paragraph
8 3 of subsection A of Section 15.15 of this title to perform
9 professional services;

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

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

15 14. "Designated manager" means the Oklahoma certified public
16 accountant or public accountant appointed by the firm partners or
17 shareholders to be responsible for the administration of the office;

18 15. "Designee" means the National Association of State Boards
19 of Accountancy (NASBA) or other entities so designated by the Board;

20 16. "Entity" means an organization whether for profit or not,
21 recognized by the State of Oklahoma to conduct business;

22 17. "Examination" means ~~the test sections of Auditing and~~
23 ~~Attestation, Business Environment and Concepts, Financial Accounting~~
24 ~~and Reporting, and Regulation or their successors, administered,~~
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1 ~~supervised, and graded by, or at the direction of, the Board or~~
2 ~~other jurisdiction that is required for a certificate as a certified~~
3 ~~public accountant or a license as a public accountant~~ all or any
4 part of the Uniform Certified Public Accountant's Examination or
5 tests for competency in auditing, attestation, business environment
6 and concepts, financial accounting and reporting and accounting
7 regulations as approved or designated by the Board;

8 18. "Executive director" means the chief administrative officer
9 of the Board;

10 19. "Financial statements" means statements and footnotes
11 related thereto that undertake to present an actual or anticipated
12 financial position as of a point in time, or results of operations,
13 cash flow, or changes in financial position for a period of time, in
14 conformity with generally accepted accounting principles or another
15 comprehensive basis of accounting. The term does not include
16 incidental financial data included in management advisory service
17 reports to support recommendations to a client; nor does it include
18 tax returns and supporting schedules;

19 20. "Firm" means an entity that is either a sole
20 proprietorship, partnership, professional limited liability company,
21 professional limited liability partnership, limited liability
22 partnership or professional corporation, or any other professional
23 form of organization organized under the laws of the State of
24 Oklahoma or the laws of another jurisdiction and issued a permit in

1 accordance with Section 15.15A of this title or exempt from the
2 permit requirement under Section 15.15C of this title and which also
3 is exempt from the registration requirement of paragraph 3 of
4 subsection A of Section 15.15 of this title, including individual
5 partners or shareholders, that is engaged in accountancy;

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

12 22. "Home office" means the location specified by the client as
13 the address to which a service described in Section 15.12A of this
14 title is directed;

15 23. "IFAC" means the International Federation of Accountants;

16 24. "Individual" means a human being;

17 25. "Jurisdiction" means any state or territory of the United
18 States and the District of Columbia;

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

3 27. "Management advisory services", also known as "management
4 consulting services", "management services", "business advisory
5 services" or other similar designation, hereinafter collectively
6 referred to as "MAS", means the function of providing advice and/or
7 technical assistance, performed in accordance with standards for MAS
8 engagements and MAS consultations such as those issued by the
9 American Institute of Certified Public Accountants, where the
10 primary purpose is to help the client improve the use of its
11 capabilities and resources to achieve its objectives including but
12 not limited to:

- 13 a. counseling management in analysis, planning,
14 organizing, operating, risk management and controlling
15 functions,
- 16 b. conducting special studies, preparing recommendations,
17 proposing plans and programs, and providing advice and
18 technical assistance in their implementation,
- 19 c. reviewing and suggesting improvement of policies,
20 procedures, systems, methods, and organization
21 relationships, and
- 22 d. introducing new ideas, concepts, and methods to
23 management.

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

5 28. "NASBA" means the National Association of State Boards of
6 Accountancy;

7 29. "PA" or "P.A." means public accountant;

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

14 31. "PCAOB" means the Public Company Accounting Oversight
15 Board;

16 32. "Peer Review" means a review performed pursuant to a set of
17 peer review rules established by the Board. The term "peer review"
18 also encompasses the term "quality review";

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

22 34. a. "Practice of public accounting", also known as
23 "practice public accounting", "practice" and "practice
24 accounting", refers to the activities of a registrant,

1 an individual granted practice privileges under
2 Section 15.12A of this title, or a firm exempt from
3 the permit and registration requirements under Section
4 15.15C of this title in reference to accountancy. An
5 individual or firm shall be deemed to be engaged in
6 the practice of public accounting if the individual or
7 firm holds itself out to the public in any manner as
8 one skilled in the knowledge, science, and practice of
9 accounting and auditing, taxation and management
10 advisory services and is qualified to render such
11 professional services as a certified public accountant
12 or public accountant, and performs the following:

- 13 (1) maintains an office for the transaction of
14 business as a certified public accountant or
15 public accountant,
- 16 (2) offers to prospective clients to perform or who
17 does perform on behalf of clients professional
18 services that involve or require an audit,
19 verification, investigation, certification,
20 presentation, or review of financial transactions
21 and accounting records or an attestation
22 concerning any other written assertion,
- 23 (3) prepares or certifies for clients reports on
24 audits or investigations of books or records of

1 account, balance sheets, and other financial,
2 accounting and related schedules, exhibits,
3 statements, or reports which are to be used for
4 publication or for the purpose of obtaining
5 credit, or for filing with a court of law or with
6 any governmental agency, or for any other
7 purpose,

8 (4) generally or incidentally to the work described
9 herein, renders professional services to clients
10 in any or all matters relating to accounting
11 procedure and to the recording, presentation, or
12 certification of financial information or data,

13 (5) keeps books, or prepares trial balances,
14 financial statements, or reports, all as a part
15 of bookkeeping services for clients,

16 (6) prepares or signs as the tax preparer, tax
17 returns for clients, consults with clients on tax
18 matters, conducts studies for clients on tax
19 matters and prepares reports for clients on tax
20 matters, unless the services are uncompensated
21 and are limited solely to the registrant's, or
22 the registrant's spouse's lineal and collateral
23 heirs,

- 1 (7) prepares personal financial or investment plans
2 or provides to clients products or services of
3 others in implementation of personal financial or
4 investment plans, or
5 (8) provides management advisory services to clients.

6 b. Except for an individual granted practice privileges
7 under Section 15.12A of this title or a firm exempt
8 from the permit and registration requirements under
9 Section 15.15C of this title, an individual or firm
10 not holding a certificate, license or permit shall not
11 be deemed to be engaged in the practice of public
12 accounting if the individual or firm does not hold
13 itself out, solicit, or advertise for clients using
14 the certified public accountant or public accountant
15 designation and engages only in the following
16 services:

- 17 (1) keeps books, or prepares trial balances,
18 financial statements, or reports; provided, such
19 instruments do not use the terms "audit",
20 "audited", "exam", "examined", "review" or
21 "reviewed" or are not exhibited as having been
22 prepared by a certified public accountant or
23 public accountant. Except for an individual
24 granted practice privileges under Section 15.12A

1 of this title or a firm exempt from the permit
2 and registration requirements under Section
3 15.15C of this title, nonregistrants may use the
4 following disclaimer language in connection with
5 financial statements and be in compliance with
6 the Oklahoma Accountancy Act: "I (we) have not
7 audited, examined or reviewed the accompanying
8 financial statements and accordingly do not
9 express an opinion or any other form of assurance
10 on them.",

11 (2) prepares or signs as the tax preparer, tax
12 returns for clients, consults with clients on tax
13 matters, conducts studies for clients on tax
14 matters and prepares reports for clients on tax
15 matters,

16 (3) prepares personal financial or investment plans
17 or provides to clients products or services of
18 others in implementation of personal financial or
19 investment plans, or

20 (4) provides management advisory services to clients.

21 c. Only permit holders, individuals granted practice
22 privileges under Section 15.12A of this title, or
23 firms exempt from the permit and registration
24 requirements under Section 15.15C of this title and

1 who also meet the requirements of paragraph 3 of
2 subsection A of Section 15.15 of this title may render
3 or offer to render any attest service, as defined
4 herein, or issue a report on financial statements
5 which purport to be in compliance with the Statements
6 on Standards for Accounting and Review Services
7 (SSARS). This restriction shall not prohibit any act
8 of a public official or public employee in the
9 performance of that person's duties. This restriction
10 shall not be construed to prohibit the performance by
11 any unlicensed individual of other services as set out
12 in subparagraph b of this paragraph.

- 13 d. A person is not deemed to be practicing public
14 accounting within the meaning of this section solely
15 by displaying an Oklahoma CPA certificate or a PA
16 license in an office, identifying himself or herself
17 as a CPA or PA on letterhead or business cards, or
18 identifying himself or herself as a CPA or PA.
19 However, the designation of CPA or PA on such
20 letterheads, business cards, public signs,
21 advertisements, publications directed to clients or
22 potential clients, financial or tax documents of a
23 client, performance of any attest service or issuance
24 of a report constitutes the practice of public

1 accounting and requires a permit, practice privileges
2 under Section 15.12A of this title, or an exemption
3 from the permit and registration requirements under
4 Section 15.15C of this title;

5 35. "Preissuance review" means a review performed pursuant to a
6 set of procedures that include review of engagement document,
7 report, and clients' financial statements in order to permit the
8 reviewer to assess compliance with all applicable professional
9 standards;

10 36. "Principal place of business" means the office location
11 designated by the licensee for the purposes of substantial
12 equivalency and reciprocity;

13 37. "Professional corporation" means a corporation organized
14 pursuant to the laws of this state;

15 38. "Professional" means arising out of or related to the
16 specialized knowledge or skills associated with CPAs or PAs;

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

19 40. "Public interest" means the collective well-being of the
20 community of people and institutions the profession serves;

21 41. "Qualification applicant" means an individual who has made
22 application to the Board to qualify to become a candidate for
23 examination;

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

5 43. "Report", when used with reference to any attest or
6 compilation service, means an opinion, report or other form of
7 language that states or implies assurance as to the reliability of
8 the attested information or compiled financial statements, and that
9 also includes or is accompanied by any statement or implication that
10 the person or firm issuing it has special knowledge or competence in
11 accounting or auditing. Such a statement or implication of special
12 knowledge or competence may arise from use by the issuer of the
13 report of names or titles indicating that the person or firm is an
14 accountant or auditor, or from the language of the report itself.
15 The term "report" includes any form of language which disclaims an
16 opinion when such form of language is conventionally understood to
17 imply any positive assurance as to the reliability of the attested
18 information or compiled financial statements referred to and/or
19 special competence on the part of the person or firm issuing such
20 language; and it includes any other form of language that is
21 conventionally understood to imply such assurance and/or such
22 special knowledge or competence. This definition is not intended to
23 include a report prepared by a person not holding a certificate or
24 license or not granted practice privileges under Section 15.12A of

1 this title. However, such report shall not refer to "audit",
2 "audited", "exam", "examined", "review" or "reviewed", nor use the
3 language "in accordance with standards established by the American
4 Institute of Certified Public Accountants" or successor of said
5 entity, or governmental agency approved by the Board, except for the
6 Internal Revenue Service. Except for an individual granted practice
7 privileges under Section 15.12A of this title or a firm exempt from
8 the permit and registration requirements under Section 15.15C of
9 this title, nonregistrants may use the following disclaimer language
10 in connection with financial statements not to be in violation of
11 the Oklahoma Accountancy Act: "I (we) have not audited, examined,
12 or reviewed the accompanying financial statements and accordingly do
13 not express an opinion or any other form of assurance on them.";

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

19 45. "Review", when used with reference to financial statements,
20 means a registrant or an individual granted practice privileges
21 under Section 15.12A of this title, that also meets the requirements
22 of paragraph 3 of subsection A of Section 15.15 of this title or a
23 firm exempt from the permit and registration requirements under
24 Section 15.15C of this title performing inquiry and analytical

1 procedures that provide the registrant with a reasonable basis for
2 expressing limited assurance that there are no material
3 modifications that should be made to the statements in order for
4 them to be in conformity with generally accepted accounting
5 principles or, if applicable, with another comprehensive basis of
6 accounting; and

7 46. "Substantial equivalency" is a determination by the
8 Oklahoma Accountancy Board or its designee that:

- 9 a. the education, examination and experience requirements
10 contained in the statutes and administrative rules of
11 another jurisdiction are comparable to, or exceed, the
12 education, examination and experience requirements
13 contained in the AICPA/NASBA Uniform Accountancy Act,
14 or
15 b. that an individual certified public accountant's or
16 public accountant's education, examination and
17 experience qualifications are comparable to or exceed
18 the education, examination and experience requirements
19 contained in the Oklahoma Accountancy Act and rules of
20 the Board.

21 In ascertaining substantial equivalency as used in the Oklahoma
22 Accountancy Act, the Board or its designee shall take into account
23 the qualifications without regard to the sequence in which
24 experience, education, or examination requirements were attained.

1 SECTION 2. This act shall become effective July 1, 2021.

2 SECTION 3. It being immediately necessary for the preservation
3 of the public peace, health or safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.
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