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## Final report from the AICPA/NASBA Joint Committee on regulation of the profession

AICPA/NASBA Joint Committee on Regulation of the Profession

National Association of State Boards of Accountancy

American Institute of Certified Public Accountants (AICPA)

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on Regulation of the Profession

April 1997

# **FINAL REPORT FROM THE AICPA/NASBA JOINT COMMITTEE ON REGULATION OF THE PROFESSION**

## **I. Background**

AICPA and NASBA have a long history of working together to enhance the regulation of the accounting profession for the benefit of the public and to promote uniformity of regulation among the U.S. jurisdictions. Starting in 1983, the AICPA and NASBA worked to combine their respective model accountancy bills into a single bill jointly issued by both organizations. In 1992, the AICPA/NASBA Model Bill was renamed the AICPA/NASBA Uniform Accountancy Act (UAA) and Uniform Accountancy Rules were added to assist states in implementing the UAA's provisions.

While these past joint efforts at promoting high professional standards, protecting the public and increasing uniformity of regulation have been important, they have not produced the level of results either organization believes is satisfactory. This, coupled with other significant factors occurring in the global marketplace for accounting services, led both AICPA and NASBA to begin to examine new ways to respond in this area. The AICPA, through the work of the Special Committee on Regulation and Structure (Mingle Committee) and NASBA, through its Reciprocity Committee and Future Licensing, Litigation and Legislation Committee, each began to explore new regulatory concepts and approaches that would be responsive to the challenges to the current regulatory system.

In March 1996, the Joint Committee on Regulation of the Profession (Joint Committee) was formed by AICPA and NASBA to share the concepts and ideas of each organization's committees and to work to develop consensus on some significant new regulatory changes for the future. The members of the Joint Committee are leaders of AICPA and NASBA, as well as the state board administrators group and state society executive directors group (CPA/SEA).

After a year of meetings and discussions, the Joint Committee reached agreement in February 1997 on a new regulatory framework to: enhance interstate reciprocity and practice across state lines by CPAs, meet the future needs of the profession, respond to the marketplace and, most importantly, protect the public that the profession serves. The Joint Committee's Report was then exposed to State Boards of Accountancy and AICPA Council Members to obtain their input on the regulatory concepts it promotes. Feedback from this exposure process was then utilized to finalize the recommendations contained in this Final Report.

## II. Why is Regulatory Change Needed?

During its deliberations, the Joint Committee discussed and reviewed a variety of current environmental factors that are affecting the accounting profession and regulation, and in some cases business and society at large. Some of the more significant factors are detailed below.

- A. **Globalization** - We live in a rapidly shrinking world. The move to a global economy is accelerating, thanks to international trade agreements, advances in technology, communication and travel. National and state boundaries, standards and regulation may be too limiting in a global marketplace.

International trade agreements provide an opportunity to permit qualified accounting professionals to offer services in the U.S. This challenges the profession and state boards of accountancy to accommodate foreign reciprocity. With a shift to global capital markets, efforts are also underway to harmonize accounting and auditing standards of the various developed countries, which may well lead to one set of standards in the near future.

Businesses are adapting to these changes, and the accounting profession and state boards must also respond to meet the future needs of clients, employers and the public.

- B. **Information Technology** - Information and communication technologies are changing how information is developed and distributed, who distributes it, how it is stored and how it is used. These changes are affecting the types of services CPAs provide and how they provide them to clients. Information technology allows an individual to do business with nearly anyone on the planet from a single location. Thus, even small firms and sole practitioners can enter the global marketplace through the World Wide Web and are doing so now. These technological advances challenge the current regulatory system that was originally designed to depend heavily on the physical presence of an individual in the state of jurisdiction.
- C. **Expansion of Services** - CPAs have expanded their scope of practice well beyond the traditional accounting, auditing and taxation services that existed at the outset of the profession and the state board regulatory system. Today CPAs offer a wide range of services to satisfy the public. This scope of services will continue to grow in the future as CPAs strive to continue to serve new and existing clients and the public.
- D. **Challenges to the Current System** - The current regulatory structure for the profession is being challenged. These attacks come from various parties. They include CPAs who do not agree with the current system, or aspects of it, and feel it impinges on their perceived rights to use their CPA title. The outcome of recent lawsuits in several states could dramatically affect the current regulatory system for the profession. In addition, certain prohibitions have not been enforced by all state boards and the marketplace has already accepted new practices in these areas.

- E. **Demographic Shifts** - The focus of regulation has been, as it well should, on those CPAs in public practice. Yet there has been an ongoing shift in the composition of the accounting profession away from public practice. Today the majority of CPAs work outside public practice in industry, government, education and other fields. It is estimated that this shift will continue into the foreseeable future.

### III. **Key Goals and Objectives**

The Joint Committee identified several key goals or objectives that it agreed were of central importance to any modification of the current regulatory system for CPAs in today's global economy and marketplace. These include:

- A. Assuring that all CPAs are licensed and subject to state board jurisdiction.
- B. Providing for the portability of the CPA designation across state lines. Enabling all licensed CPAs, whether in public practice, industry, government or academia, to call themselves CPAs in all U.S. jurisdictions.
- C. Providing for the mobility of CPAs in public practice to readily operate across state lines, in person or electronically, to service clients outside their state of licensure. Making it easier for CPAs to relocate from one state to another and obtain reciprocity.
- D. Providing for an effective disciplinary/enforcement system to protect the public that utilizes CPA services across state lines.
- E. Providing greater uniformity in the rules for licensure, practice and ethics for CPAs in all jurisdictions.
- F. Eliminating rules or barriers that inhibit CPAs from using their CPA title. Developing a regulatory system that does not discourage CPAs, regardless of their line of work or place of employment, to tell the world they are CPAs.
- G. Strengthening the focus of regulation to sustain the protection of the public where it is most critical and adapting regulation to the future needs of the public with an awareness of the impact on the profession.
- H. Assuring that state boards have the necessary resources to carry out their licensing and enforcement functions for the protection of the public.

### IV. **Joint Committee Recommendations**

The Joint Committee's proposal for regulatory change seeks to accomplish the broad objectives of mobility and uniformity within today's state-based regulatory model. It includes:

- Implementation of a “substantial equivalency” concept to simplify reciprocity and to provide practice rights across state lines for CPAs from states meeting UAA standards.
- Licensing and regulation of all individual CPAs by state boards of accountancy (CPA=CPA).
- A renewed effort to promote the UAA in the states.

A primary goal of the proposal is that all individual CPAs would be licensed, regulated and recognized on substantially the same basis throughout the country. Moreover, each would be subject to the same basic Code of Professional Conduct which would assure proper professional behavior and adherence to general professional standards. CPAs could be disciplined by either a state board in their state of licensure or a state board in another state in which they practice, if they commit a violation of the law, rules or code.

More details on each component of this proposal follow:

**A. Substantial Equivalency**

With respect to the goal of portability of the CPA designation and mobility of CPAs across state lines, the cornerstone of the approach recommended by the Joint Committee is the concept of “substantial equivalency” originated by NASBA. That is, if a CPA has a license in good standing from a state that utilizes CPA certification criteria that are essentially, or nearly equal to, those outlined in the UAA, then the CPA’s ability to obtain reciprocity or have the right to practice in another state would be permitted. Individuals would not be denied reciprocity or practice rights because of minor or immaterial differences in the requirements for CPA certification from state to state.

To accomplish this goal of “substantial equivalency,” all states and U.S. jurisdictions would be encouraged to adopt changes to their accountancy regulations and/or statutes as necessary. The Joint Committee, with assistance from legal counsel, is developing language for use by states. The language will point to the UAA as the guide for determining “substantial equivalency”. The Joint Committee also proposes that a NASBA Qualification Appraisal Service, on behalf of state boards of accountancy and at their request, make these determinations of equivalency on a state-by-state basis, as well as for individuals who come from states that are not substantially equivalent but who personally meet UAA standards.

This concept is comparable to that currently being used by the International Qualifications Appraisal Board in determining substantial equivalency of accounting professionals from foreign countries. Under the General Agreement on Trade in Services (GATS), participating countries are encouraged to break down barriers to reciprocity and the free flow of professional services across borders. With the shift to a global economy and the elimination of barriers to practice rights between countries, it

is only logical that the profession move to ease reciprocity and mobility across state lines.

Use of technology to serve clients is another prime reason to modify the current system that is supported by the feedback received from NASBA members and AICPA Council members. 76% of NASBA members and 84% of Council members responded that they currently service clients electronically through the use of technology. And of those in public practice, 65% of NASBA and 69% of Council said that some of those clients served electronically are outside the state in which they are licensed and practice.

Under the concept of substantial equivalency, state boards would request NASBA to determine whether another state's certification criteria (education, examination and experience) are "substantially equivalent" to the national standard outlined in the UAA. If a state is determined to be "substantially equivalent," then licensees from that state would find the reciprocity process simplified when they move or relocate their place of "principal employment" to another state. State Boards, upon verifying the individual holds a valid license from a "substantially equivalent" state, would issue a reciprocal license.

Moreover, individual CPAs who practice across state lines in person, or who service clients in another state via electronic technology, would not be required to obtain a reciprocal or temporary license if their state of licensure (which is the state of "principal employment" in which one's principal office is located) is deemed "substantially equivalent" and they hold a valid license in that state. Rather, they would simply notify other State Boards of their intent to practice in their states.

To the extent an individual CPA is licensed in a state not deemed to be substantially equivalent, that individual can still apply to the NASBA Qualification Appraisal Service for the same benefits of substantial equivalency. In evaluating such an individual application, the service will require 150 hours of education only of applicants who passed the CPA exam after the year 2000. In addition, moving forward, any state that passes 150 hour legislation would be considered substantially equivalent (assuming it meets the other standards) as long as the effective implementation date for the 150 hour requirement occurs within six years of passage.

To assure protection of the public, provisions would be added to state accountancy laws/regulations that would subject licensees who practice across state lines to disciplinary action in either their state of licensure or a state in which they practice on a substantial equivalency basis. In accepting their license, CPAs would agree to follow the laws and rules of other states in which they practice.

The Joint Committee feels that implementation of the "substantial equivalency" approach will make a significant improvement in the current regulatory system and assist in accomplishing the goal of portability of the CPA designation and mobility of CPAs across state lines, while at the same time providing for protection of the public.

## **B. Licensure for All CPAs**

The Joint Committee recommends a regulatory model that requires licensing for all CPAs. This assures that all individuals who wish to use the CPA title meet equivalent entrance requirements, and it brings all CPAs under the scope and jurisdiction of a State Board of Accountancy regardless of the activities they perform while using their CPA designation. This is consistent with the current UAA. However, the Committee suggests several modifications to the UAA that will better focus CPA regulation on the most critical services (attest) and respond to some of the environmental factors affecting the profession. The basics of that model and areas where modifications to the current UAA will be required are as follows:

### **1. Basic Criteria for Initial Licensure**

To obtain a CPA license, the Joint Committee suggests the following criteria:

**Education** - 150 semester hours including a baccalaureate degree (UAA).

**Examination** - Successfully pass the uniform CPA examination (under conditioning requirements defined by UAA).

**Experience** - A one year general experience requirement under the supervision of a licensee or other qualified professional broadly defined to accommodate experience in all fields of employment (i.e., public accountancy, industry, education, government, etc.) (Will require a UAA change).

**Good Character** - Meet good character requirements (UAA).

**Fee** - Pay an administrative fee for issuance of the license (UAA).

### **2. Criteria for License Renewal**

To renew the CPA license, the Committee suggests the following criteria:

**CPE** - The Joint Committee supports a CPE requirement for all licensees. The Committee discussed alternative amounts of required CPE (120 vs. 90 hours) as well as new ways to measure CPE and alternative non-traditional ways of learning. The Joint Committee decided to wait until several AICPA and NASBA committees studying this area finish their work before finalizing recommendations in this area. However, the Committee supports one CPE requirement for all CPAs that will accommodate a new measurement system and that broadly defines acceptable CPE to assure that CPE in all fields of employment for CPAs will qualify (change in



UAA). The Committee also recommends that states utilize the “Statement of Standards for CPE Programs” developed by AICPA and NASBA in determining acceptable CPE programs.

**Renewal Fee** - Pay an administrative fee for license renewal (UAA).

3. **Regulation of CPA Firms**

**Ownership**

The Joint Committee recommends that all entities that wish to call themselves CPA firms, or use the designation “CPAs” in conjunction with their entity name, must be owned by a simple majority of CPAs (licensees). (This will require a change to the UAA which currently requires 100% CPA ownership of firms.)

**Firm Licensure**

All entities that perform attest services, as defined, or call themselves CPA firms must be licensed by the State Board of Accountancy (UAA).

4. **Other Entities**

CPAs are not required to offer services to the public, other than attest services, through a CPA firm. CPAs may offer non-attest services through any type of entity they choose and there are no CPA ownership requirements for these types of entities as long as they do not call themselves CPA firms or use the term “CPAs” in association with the entity name. These entities are not required to be licensed by the State Board. (This will require a change to the UAA.)

5. **Regulation of Attest Services**

Attest services are defined, for this purpose, as follows:

“providing (1) any audit or other engagement performed in accordance with the Statements on Auditing Standards (SAS), (2) any review of a financial statement or compilation of a financial statement performed in accordance with the Statement on Standards for Accounting and Review Services (SSARS), and (3) any examination of prospective financial information performed in accordance with the Statement on Standards for Attestation Engagement (SSAE).”

(Examinations of prospective financial information must be added to the UAA.)

- Attest services may only be performed by a licensed CPA firm (UAA).
- Firms performing attest services must undergo peer/quality review every three years (UAA).
- Because of the public sensitivity of attest services, there should be an experience requirement for those CPAs who supervise attest engagements for their firms and sign reports on financial statements. This required experience will be defined in professional standards promulgated by AICPA and referenced in the state accountancy laws. (Will require a UAA change).

Firms would be required to acknowledge, as part of the firm licensure process, that appropriate individuals in the firm had complied with the requirement and this information would be verified as part of the peer review process. Firms that fail to meet the applicable experience requirement detailed in professional standards will be subject to the disciplinary authority of the State Board.

- The Joint Committee recommends that “safe harbor” language for use by non-licensees be added to the UAA and that states be encouraged to adopt it. This will clarify acceptable language non-licensees can use in association with financial statements and make clear they are not licensed to perform attest services. (Will require a UAA change).

## 6. **Regulation of Fees**

Currently, the UAA is silent on the issue of CPAs accepting commissions and contingent fees. The majority of states continue to ban commissions and contingent fees, either through a statutory or regulatory ban, but the trend in states is to permit these fee arrangements.

The Joint Committee recommends that the UAA be revised to enable CPAs to accept commissions that are disclosed to clients in writing except in situations where the CPA performs attest services for a client. CPAs could accept contingent fees for services, except from clients for whom they perform attest services and for preparing an original tax return. Contingent fees for preparation of amended tax returns or refund claims would be permitted, as long as the CPA had a reasonable expectation the claim would be the subject of a substantive review by the taxing authority. (Will require a UAA change).

The Joint Committee does not support restrictions on fee arrangements for CPAs except in situations involving attest services. The marketplace should dictate these arrangements as long as they are disclosed to clients. In addition, the Committee notes about half the states currently permit CPAs to accept commissions and contingent fees on some basis except from attest clients.

## **7. Inactive/Retired Status**

For CPAs who are retired, or who do not perform any public accounting services and do not wish to take CPE, an “inactive” status should be added to the UAA. These individuals would be required to place the word “inactive” behind their CPA title on business cards, letterhead, etc. This will provide a means for those individuals who are not using their CPA title to market services to the public to continue to use their professional designation. (This requires a change to the UAA.)

## **C. Renewed Effort to Promote the UAA**

To provide for uniform rules of licensure, practice and ethics for CPAs in all jurisdictions, the Joint Committee envisions a more dedicated promotion of the UAA. This effort with state boards and state societies would coincide with the promotion of the concepts of “substantial equivalency,” CPA=CPA and the other recommended changes to the UAA by the Committee. It is critical that AICPA and NASBA actively seek the implementation of the UAA in the states rather than passively hoping for its adoption. A concerted effort on this front, with the support of AICPA and NASBA leadership, and in turn the State Boards and State Societies, is needed to achieve the level of success desired.

## **V. Future Plans**

The NASBA Board of Directors and AICPA Council will be asked to approve the Joint Committee’s final Report in May 1997. Upon approval, the Joint Committee will then move to finalizing necessary legislative/regulatory language and work to promote and implement the proposal.

The UAA Committees of AICPA and NASBA, with the assistance of legal counsel, will be asked to develop the needed changes to the UAA to implement all of these concepts. The goal of the Joint Committee is that this be accomplished so a new UAA can be approved by the AICPA and NASBA Boards in July 1997.

## **VI. Conclusion**

As leaders of the profession, AICPA and NASBA hope to forge a new vision of regulation that recognizes marketplace needs, while assuring quality services in the public interest. If AICPA and NASBA do not take the initiative on this front, others (competitors, the courts, etc.) will surely step in to the void and attempt to create a future, and a system of regulation, with which our organizations may not agree and which may not be best for the public we serve.

While the job will not be easy, AICPA and NASBA, working together, can implement this new regulatory proposal by convincing state boards, state CPA societies and state legislators of its merits. The members of the Joint Committee respectfully request the commitment of the leadership of AICPA and NASBA to that goal and pledge their support to make it happen.