

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2061
(Workforce Development Committee)
(At the request of the Board of Accountancy)

AN ACT to create and enact a new subsection to section 43-02.2-09 of the North Dakota Century Code, relating to administrative hearings; and to amend and reenact subsection 11 of section 43-02.2-02, paragraph 2 of subdivision f of subsection 5 of section 43-02.2-03, and sections 43-02.2-04 and 43-02.2-10, of the North Dakota Century Code, relating to the practice and licensure of public accountancy.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 11 of section 43-02.2-02 of the North Dakota Century Code is amended and reenacted as follows:

11. "Principal place of business" means the office location ~~designed~~designated by the licensee for purposes of substantial equivalence and reciprocity.

SECTION 2. AMENDMENT. Paragraph 2 of subdivision f of subsection 5 of section 43-02.2-03 of the North Dakota Century Code is amended and reenacted as follows:

- (2) Rules of procedure governing the conduct of investigations and hearings ~~by the board;~~

SECTION 3. AMENDMENT. Section 43-02.2-04 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-04. Certified public accountants.

1. The board shall grant the certificate of "certified public accountant" to any person of ~~good moral character~~ who meets the requirements of this section.
2. ~~For the purposes of this chapter, good moral character means the lack of a history of dishonest or felonious acts. The board may refuse to grant a certificate on the grounds of failure to satisfy this requirement only if there is a substantial connection between the lack of good moral character of the applicant and the professional responsibilities of a licensee and if the finding by the board of lack of good moral character is supported by clear and convincing evidence. When an applicant is found to be unqualified for a certificate because of a lack of good moral character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the applicant's right of appeal. The board may not grant a certificate if the applicant has been convicted of a felony, or of any crime an element of which is dishonesty or fraud, under the laws of the United States, this state, or any other state if the acts involved would have constituted a crime under the laws of this state.~~
3. The board shall grant or renew certificates to persons who make application and demonstrate that their qualifications are in accordance with the following:
 - a. The board shall issue a certificate to a holder of a certificate, license, or permit issued by another state, upon a showing that the applicant is eligible under the substantial equivalency standard set out in subsection 1 of section 43-02.2-04.1. An application under this section may be made through the NASBA qualification appraisal service.

- b. With regard to applicants that do not qualify for reciprocity under the substantial equivalency standard set out in subdivision a, the board shall issue a certificate to a holder of a certificate, license, or permit issued by another state upon a showing that:
 - (1) The applicant passed the uniform CPA examinations;
 - (2) The applicant had four years of experience of the type described in subsection 14 or meets comparable requirements prescribed by the board by rule, after passing the examination upon which the applicant's certificate was based and within ten years immediately preceding the application; and
 - (3) If the applicant's certificate, license, or permit was issued more than four years prior to the application for issuance of an initial certificate under this section, that the applicant has fulfilled the requirements of continuing professional education that would have been applicable under subsection 15.
 - c. The applicant shall pay the applicable fee.
 - d. An individual who establishes that individual's principal place of business in this state must obtain a certificate under this section.
4. The board shall issue a certificate to a holder of a recognized accounting designation from a jurisdiction or organization outside of the United States, provided such jurisdiction or organization extends similar reciprocity to the certificate holders of this state, and upon a showing to the board's satisfaction that the applicant:
- a. ~~Meets the good moral character requirement of subsection 2;~~
 - b. Meets the substantial equivalent of the education requirements of subsection 5 and the experience requirements of subsection 14 at the time of application, or at the time of the issuance of the designation by the other jurisdiction or organization met the education and experience requirements then applicable in this state;
 - e.b. Has completed examinations generally equivalent to those prescribed under subsection 6;
 - d.c. Has satisfactorily completed any additional examinations that the board prescribes; and
 - e.d. Has paid the applicable fees.
5. The education requirement for a certificate is as follows:
- a. ~~Through December 31, 1999, a baccalaureate degree or its equivalent conferred by a college or university acceptable to the board, and an accounting concentration or equivalent as determined by board rule to be appropriate, or four years of public accounting experience on one's own account or in the office of a public accountant in active practice, or in an accounting or auditing position with the government of the United States or a state.~~
 - b. After December 31, 1999, at least one hundred fifty semester hours of college education including a baccalaureate or higher degree or its equivalent conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate. An individual who on December 31, 1999, meets the requirements of subdivision a may obtain a certificate under subdivision a if the individual passes the examination in accordance with board rules before December 31, 2004.
6. The examination required to be passed as a condition for the granting of a certificate must test the applicant's knowledge of the subjects of accounting and auditing. The time for holding the

examination must be fixed by the board and may be changed from time to time. The board may prescribe by rule the methods of applying for and conducting the examination, including methods for grading papers and determining a passing grade required of an applicant for a certificate provided that the board to the extent possible sees to it that the grading of the examination and the passing grade requirements are uniform with those applicable in all other states. The board may use all or any part of the uniform certified public accountant examination and advisory grading service of the American institute of certified public accountants and may contract with third parties to perform administrative services with respect to the examination it deems appropriate to assist it in performing its duties. The board may permit a candidate to take the examination if the board is satisfied that the candidate will complete the educational requirements of this section within six months after the candidate's application to take the examination. candidate has at least one hundred twenty semester hours of college education.

7. An applicant must pass the examination provided for in subsection 6, as specified by rule, in order to qualify for a certificate.
8. An applicant must be given credit for any and all sections of an examination passed in another state if such credit would have been given under then applicable requirements, if the applicant had taken the examination in this state.
9. The board may in particular cases waive or defer any of the requirements of subsections 7 and 8 regarding the circumstances under which the examination must be passed, upon a showing that, by reason of circumstances beyond the applicant's control, the applicant was unable to meet the requirement.
10. The board may charge, or provide for a third party administering the examination to charge, each applicant a fee, in an amount prescribed by the board by rule, for examination or re-examination.
11. A certificate of certified public accountant must be renewed each year, with renewal subject to payment of fees and any other requirements prescribed by the board.
12. The board may require examination of other related subjects as specified by rule.
13. Applicants for initial issuance or renewal of certificates under this section shall list in the applications all states and jurisdictions in which they have applied for or hold certificates or permits or other recognized accounting designation, and each holder of or applicant for a certificate under this section shall notify the board in writing, within thirty days after its occurrence, of any issuance, denial, revocation, or suspension of a certificate or permit or other recognized accounting designation by another state or jurisdiction.
14. After December 31, 2000, an applicant for initial issuance of a certificate under this section shall show that the applicant has had one year of experience. This experience must include providing any type of service or advice involving the use of accounting, attest, management advisory, financial advisory, tax, or consulting skills. This experience must be verified and must meet any other requirements prescribed by the board by rule. This experience is acceptable if it was gained through employment in government, industry, academia, or public accounting. This experience requirement does not apply to those who received a certificate from this state prior to January 1, 2000.
15. The board may require by rule, as a condition for granting and renewal of certificates under this section, that applicants show completion of continuing education meeting requirements of board rule. The continuing education rules may include provisions for exceptions and must include reasonable provision for an applicant who cannot meet the continuing education requirements due to circumstances beyond the applicant's reasonable control.

16. The board may by rule create an exception to the continuing education requirements for certificate holders who do not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. Licensees granted such an exception by the board shall place the word "inactive" adjacent to the licensee's CPA title or LPA title on any business card, letterhead or any other document or device, with the exception of the licensee's CPA or LPA certificate, on which the licensee's CPA or LPA title appears. In addition, inactive CPAs, in lieu of "inactive", may place the word "retired" adjacent to the individual's CPA title or LPA title on any business card, letterhead or any other document or device, with the exception of the individual's CPA or LPA certificate, on which the individual's CPA or LPA title appears. Nothing in this section precludes an inactive CPA, from providing the following volunteer, uncompensated services: tax preparation services, participating in a government-sponsored business mentoring program, serving on the board of directors for a nonprofit or governmental organization, or serving on a government-appointed advisory body. A licensee only may convert to inactive status if the licensee holds a license in good standing.

SECTION 4. A new subsection to section 43-02.2-09 of the North Dakota Century Code is created and enacted as follows:

A hearing regarding a disciplinary action or denial of a license must be held pursuant to chapter 28-32.

SECTION 5. AMENDMENT. Section 43-02.2-10 of the North Dakota Century Code is amended and reenacted as follows:

43-02.2-10. Enforcement procedures - Investigations.

1. If this chapter authorizes the board to revoke, deny, or suspend the certificate, license, practice privilege, or permit of any licensee or holder of a practice privilege, the individual or firm has a right to a hearing before the board on such contemplated disciplinary action and has a right to appeal to the courts from the decision of the board on the hearing. All of the provisions of chapter 28-32 relating to proceedings before an administrative agency are applicable to and govern the notice of hearing, the hearing, and the right of appeal from the board's decision. During the investigation of any complaint or other information suggesting violations of this chapter
2. The board, upon receipt of a complaint or other information suggesting violations of this chapter or of the rules of the board, may conduct investigations to determine whether there is reasonable basis to pursue disciplinary action against any individual or firm for the violation.
3. The board may designate a member or employee to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer may file a report with the board. The board may find grounds to pursue disciplinary action under section 43-02.2-09 upon the basis of the report or may return the report to the investigating officer for further investigation.
4. Until there has been a determination to pursue disciplinary action under section 43-02.2-09, the report of the investigating officer, the complaint, if any, the testimony and documents submitted in support of the complaint or gathered in the investigation, and the fact of the pending pendency of the investigation must be treated as confidential information and may not be disclosed to any person except law enforcement authorities and, to the extent deemed necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2061.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 92 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State