2016 AICPA Snapshot for State Boards of Accountancy

Steve McConnel, Consultant
State Regulatory Outreach
AICPA State Regulation & Legislation Team

Who We Are

Susan Coffey
Senior Vice President

Mat Young
Vice President

Suzanne Jolicoeur
Senior Manager –
State Regulation

James Cox
Senior Manager –
State Legislation

Lindsay Patterson
Manager –
Communications

Steve McConnel
Consultant

Julia Morriss
Project Administrator

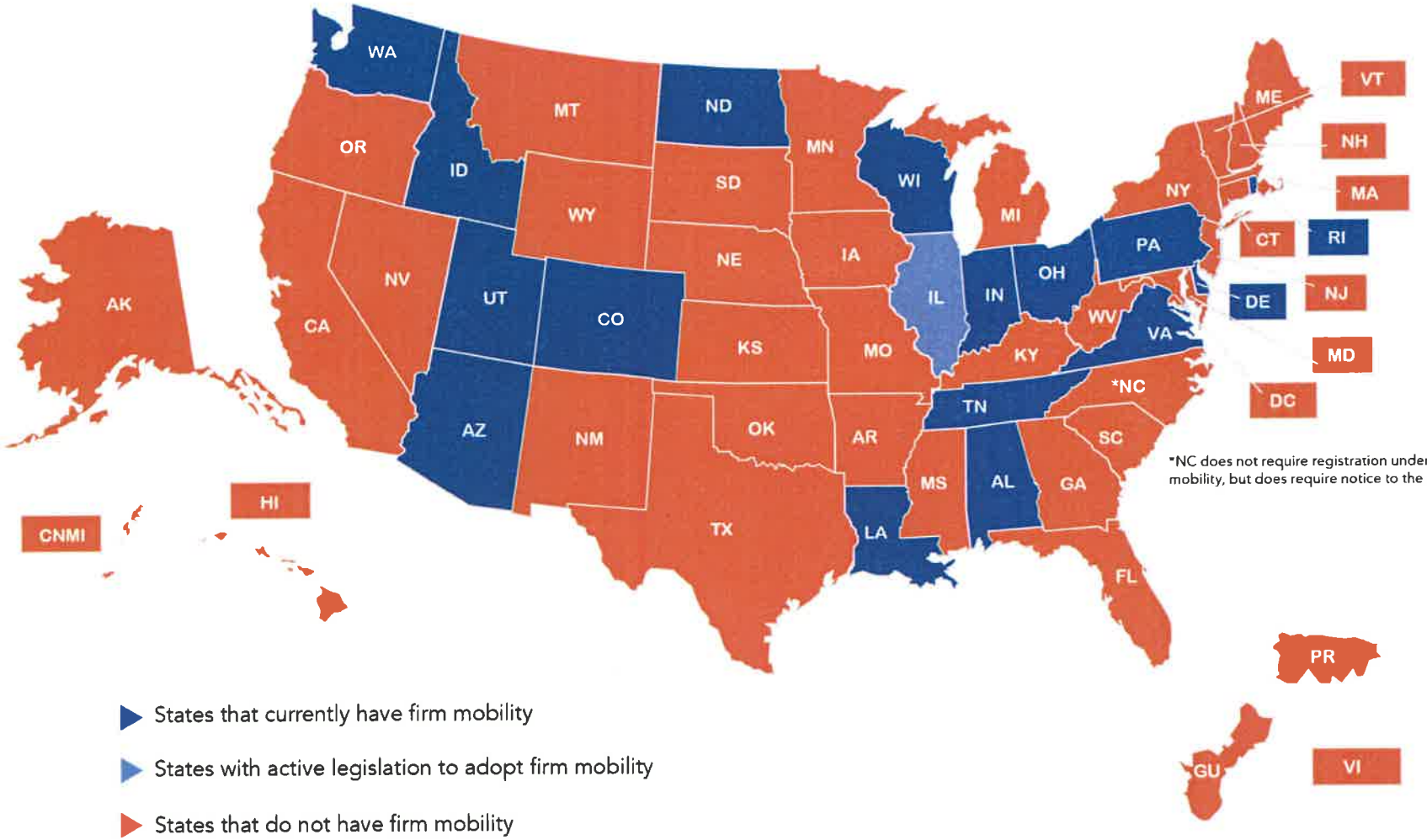
What We Do

- Support state CPA society advocacy efforts
- Serve as resource for state CPA societies & state boards
- Provide staff support to UAA Committee
- Form strategic partnerships with NASBA

Major Profession Initiatives

- Definition of Attest
- Firm Mobility
- Adoption of AICPA Code of Conduct
- CPE Reciprocity
- CPA Pipeline
- CPA Exam Change
- Evolution of Peer Review Administration

Firm Mobility



*NC does not require registration under mobility, but does require notice to the board.

- States that currently have firm mobility
- States with active legislation to adopt firm mobility
- States that do not have firm mobility

Updated 6.22.2016

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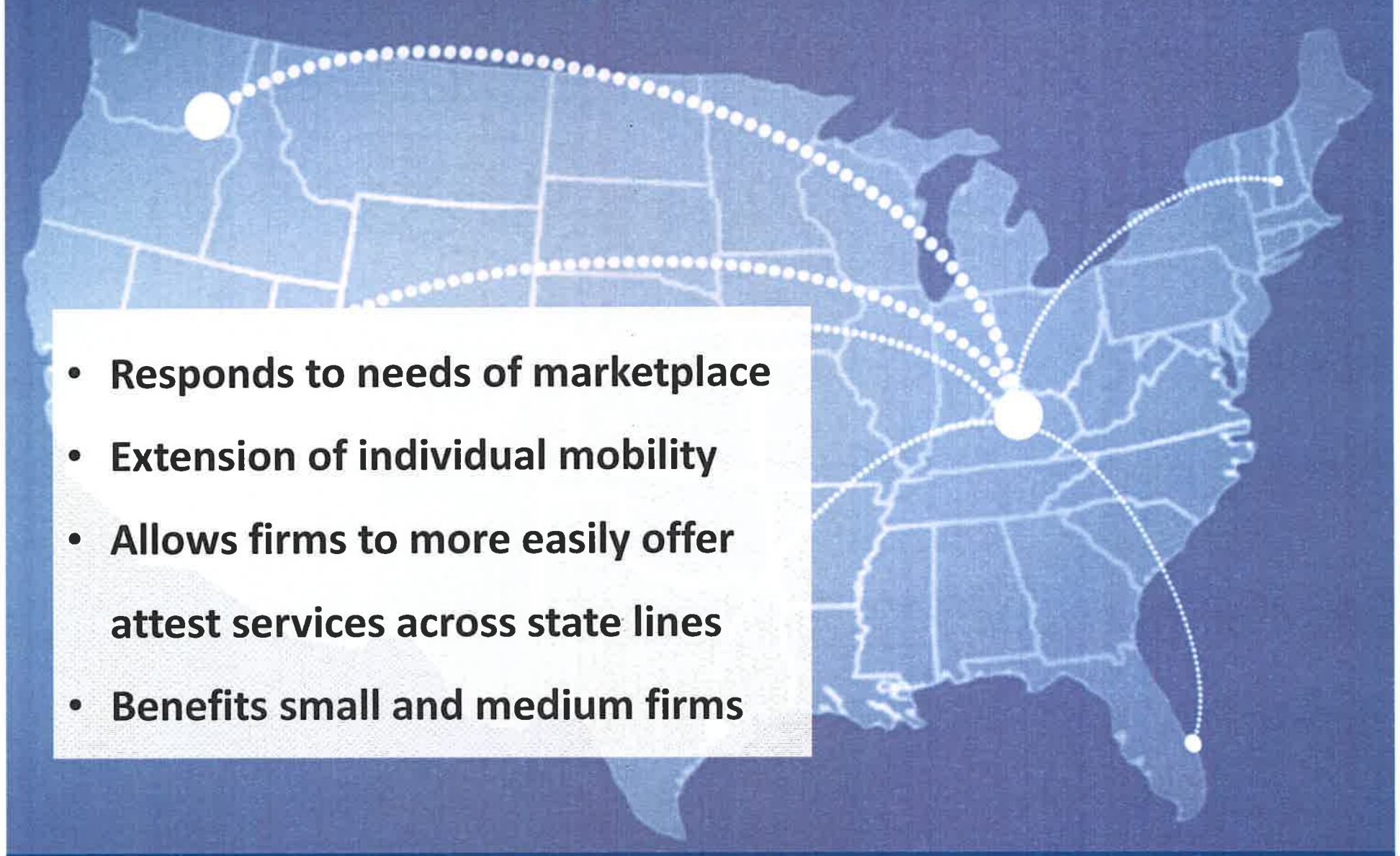
Firm Mobility for Attest Services

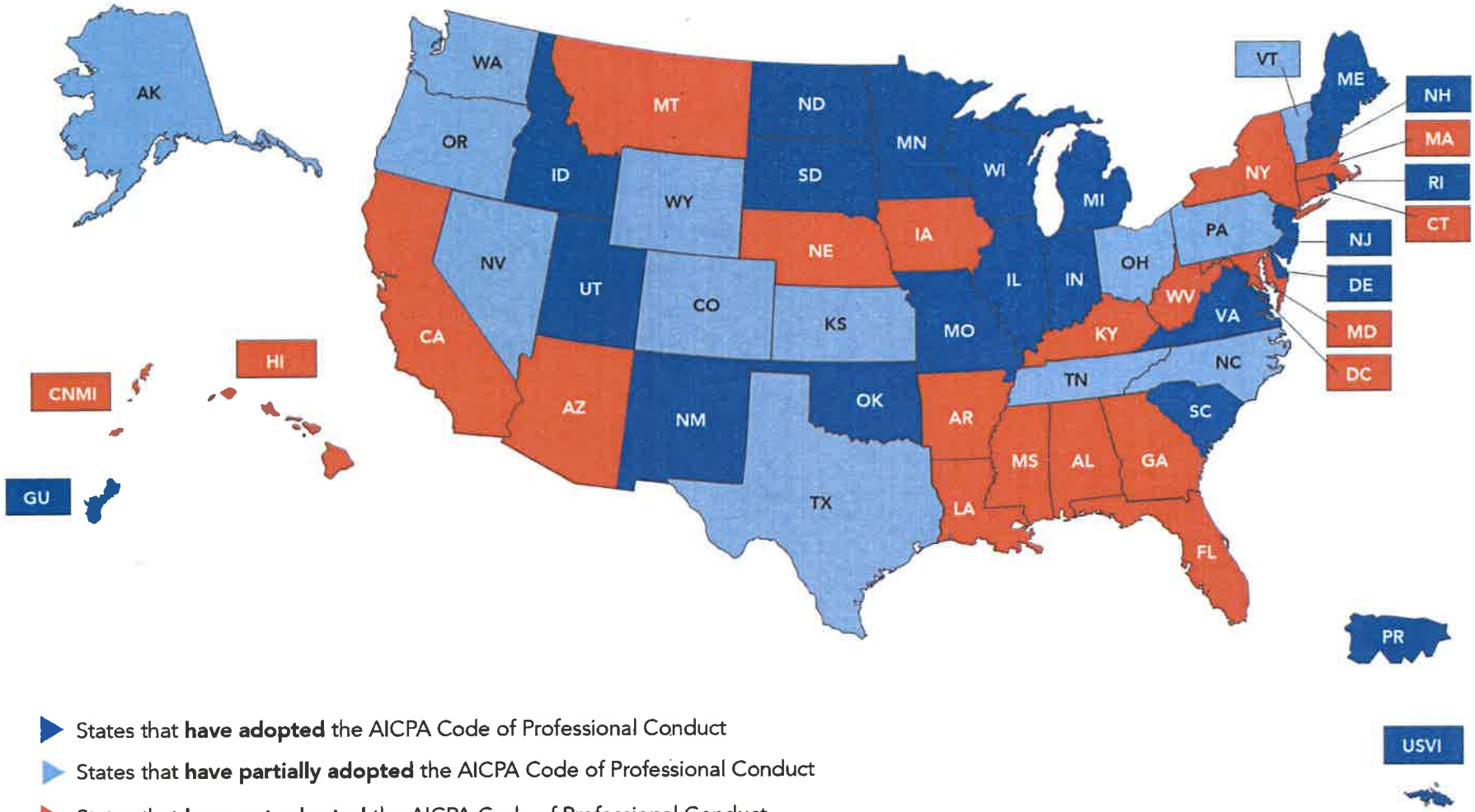


- Responds to needs of marketplace
- Extension of individual mobility
- Allows firms to more easily offer attest services across state lines
- Benefits small and medium firms

Proposed Change to the Uniform Accountancy Act on Firm Mobility

CURRENT LAW	PROPOSED LAW
In-state authority over CPA firms	Same
Out-of-state authority	Same
Out-of-state registration and fee requirements	None
In-state registration and fee requirement	Same
Notification process to home state board	Same

AICPA Code of Professional Conduct



- States that **have adopted** the AICPA Code of Professional Conduct
- States that **have partially adopted** the AICPA Code of Professional Conduct
- States that **have not adopted** the AICPA Code of Professional Conduct

AICPA Code of Conduct

Uniform ethics and independence standards:

- Support mobility
- Facilitate compliance with rules
- Protect the public
- Promote sound business practices

- **Joint AICPA-NASBA effort**
- **Increased state board representation on PEEC**

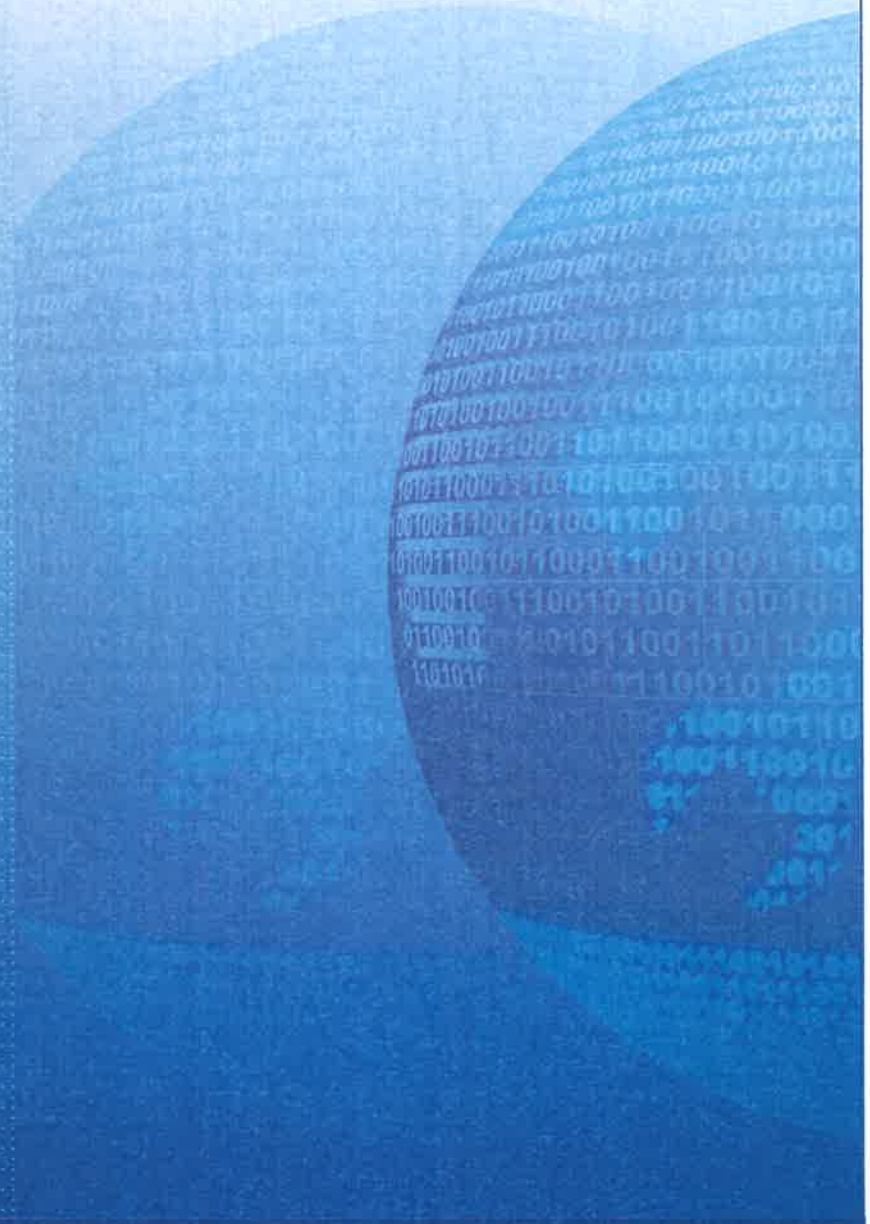
Constantly Evaluated and Updated

Two current issues:

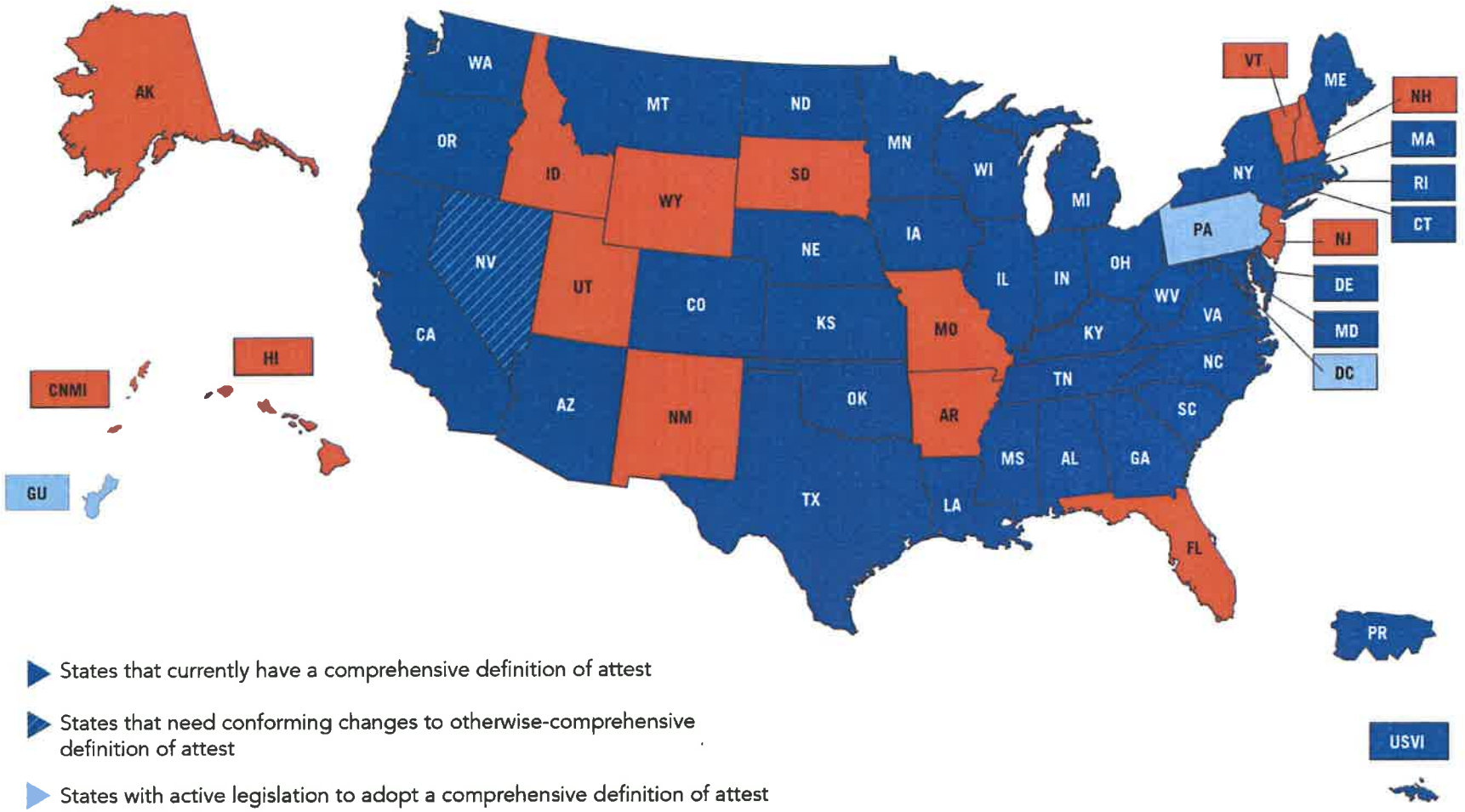
1. File transfers in connection with sale, transfer, or discontinuance of practice
2. Written disclosure of commissions and referral fees

Code Structure

- **Conceptual Framework**
  - Provides additional guidance
- **Divided into 3 parts**
  - Public practice
  - Business & Industry
  - All other licensees
- **Organized by topic**
- **Easily searchable**



Comprehensive Definition of Attest



- States that currently have a comprehensive definition of attest
- States that need conforming changes to otherwise-comprehensive definition of attest
- States with active legislation to adopt a comprehensive definition of attest
- States that do not have a comprehensive definition of attest

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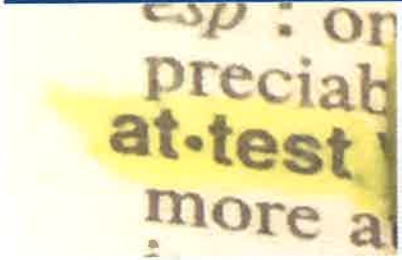


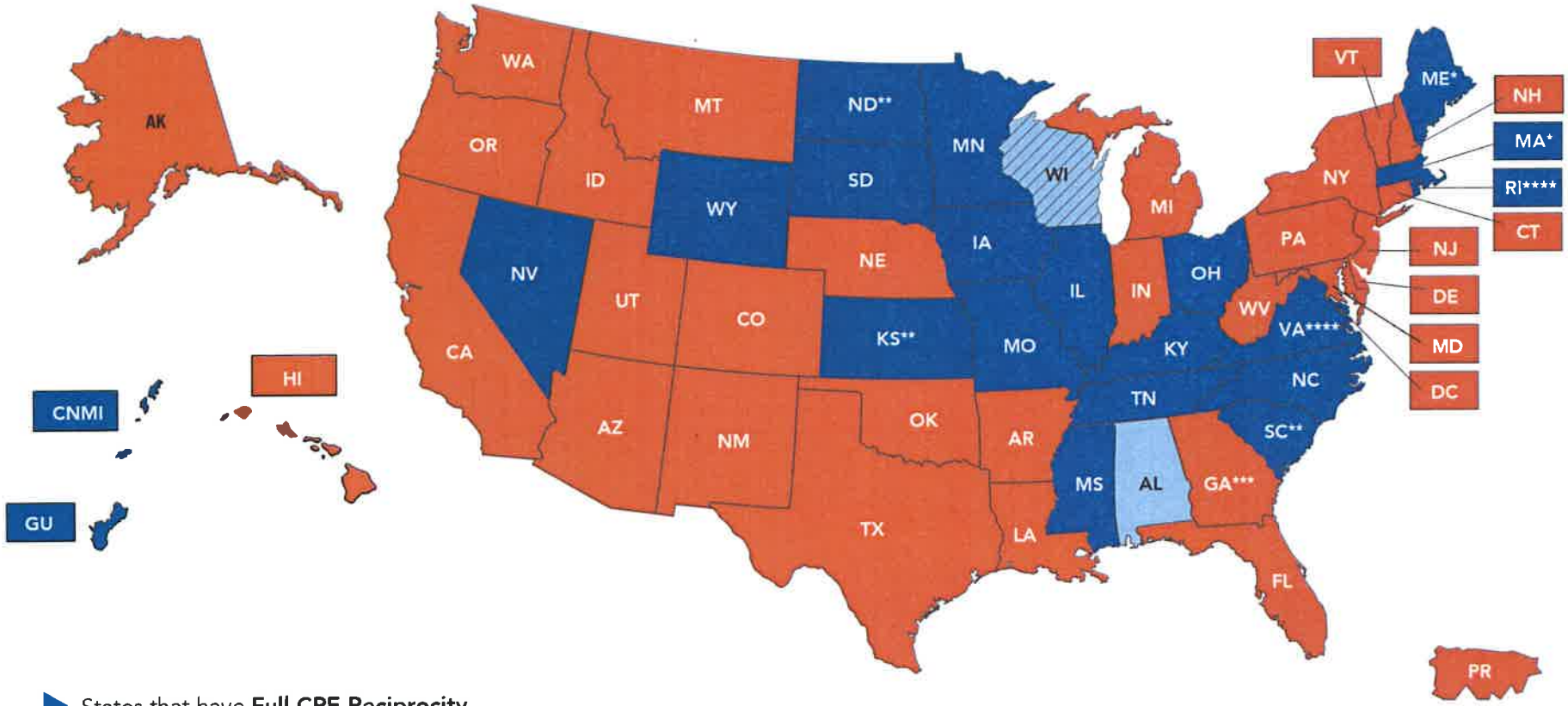
Definition of Attest

- SAS 70 Reclassified as SSAE 16
- Market Changes
- Need to Protect the Public
- Working with State Societies and State Boards

Proposed Change to the Uniform Accountancy Act's Definition of "Attest"

CURRENT DEFINITION	PROPOSED REVISION
Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS)	No change
Any review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS)	No change
Any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAEs)	Any examination, review or agreed-upon procedures engagement under Statements on Standards for Attestation Engagements (SSAEs)
Any engagement to be performed in accordance with the standards of the PCAOB	No change

CPE Reciprocity



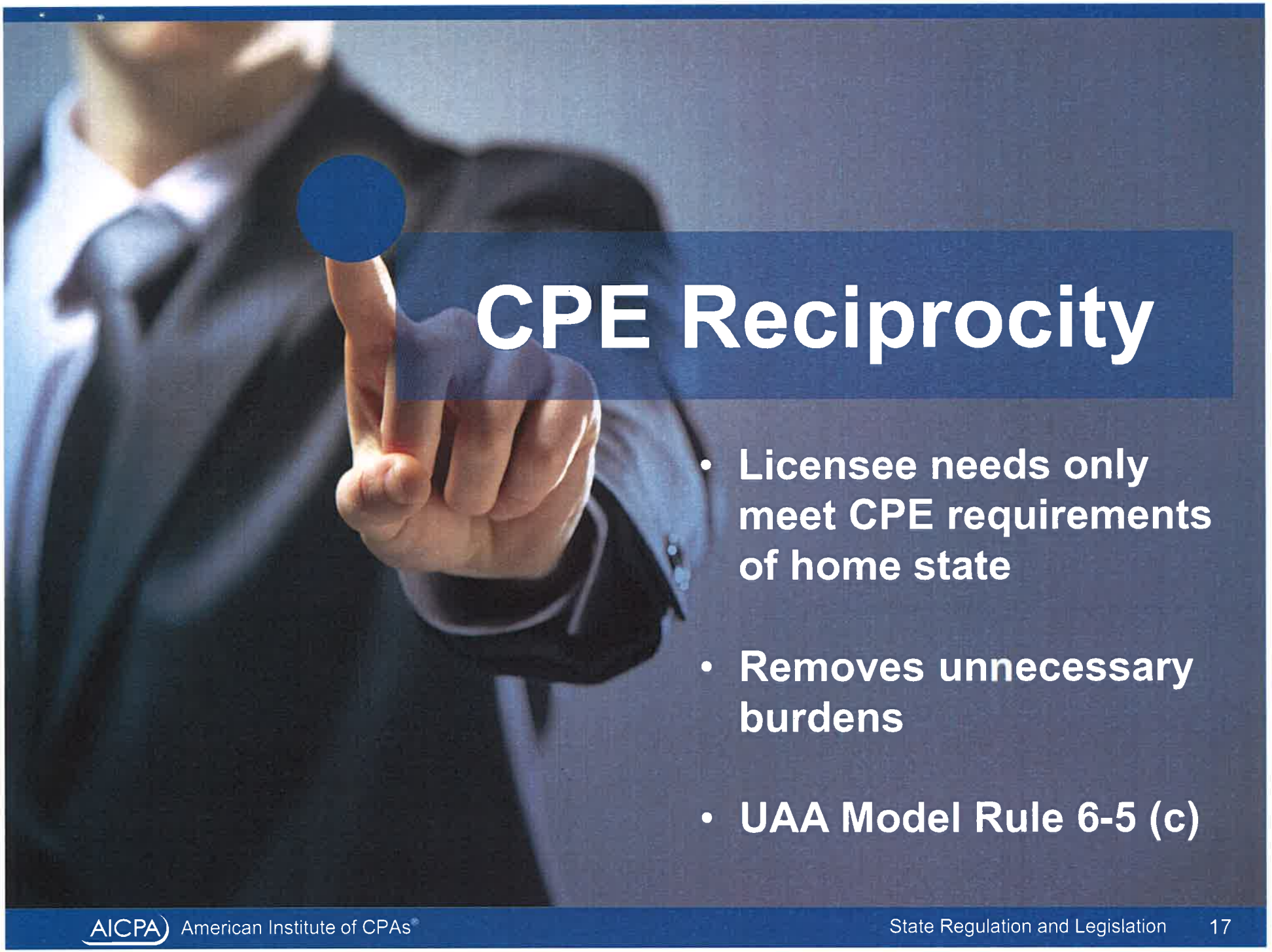
- States that have **Full CPE Reciprocity**
- States that have **Partial CPE Reciprocity**
- States that have **No CPE Reciprocity**
- States that have **No CPE Requirement**

* The Boards have not promulgated any rules to implement the statutory provision

** The Board has the authority to determine if the CPE requirements of another state are equivalent to the Board's requirements

*** The Georgia Board is in the process of having to promulgate rules under its new statute

**** Rhode Island and Virginia have full CPE reciprocity for states with an ethics requirement; this excludes AL, GA, ND, SD, UT, and WI.



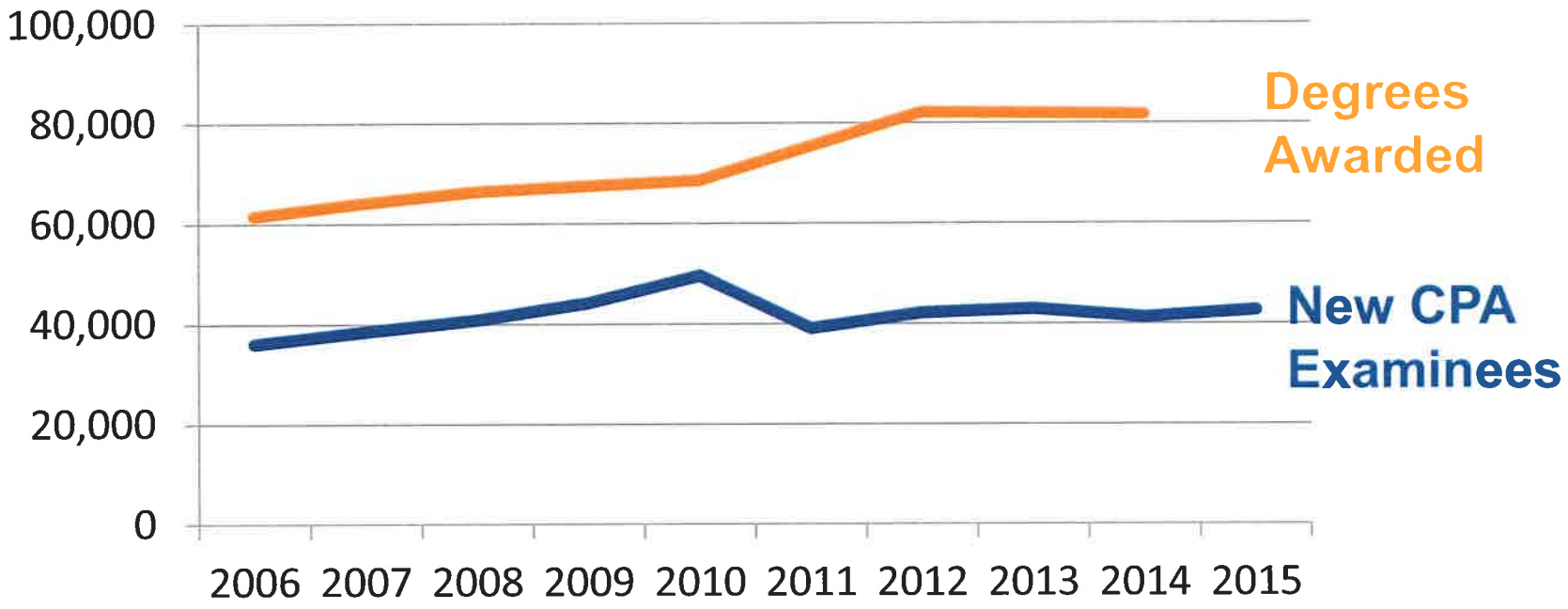
CPE Reciprocity

- Licensee needs only meet CPE requirements of home state
- Removes unnecessary burdens
- UAA Model Rule 6-5 (c)

UAA Model Rule 6-5 (c)

"A non-resident licensee seeking renewal of a certificate in this state shall be determined to have met the CPE requirement (including the requirements of Rule 6-4(a)) of this rule by meeting the CPE requirements for renewal of a certificate in the state in which the licensee's principal place of business is located."

CPA Candidate Pipeline



Sources: 2015 AICPA Trends Report; AICPA examination quarterly cohort report
File Name:CPA Pipeline Gap Chart 2006-2015 v1

Results: Environment Drives Pathway

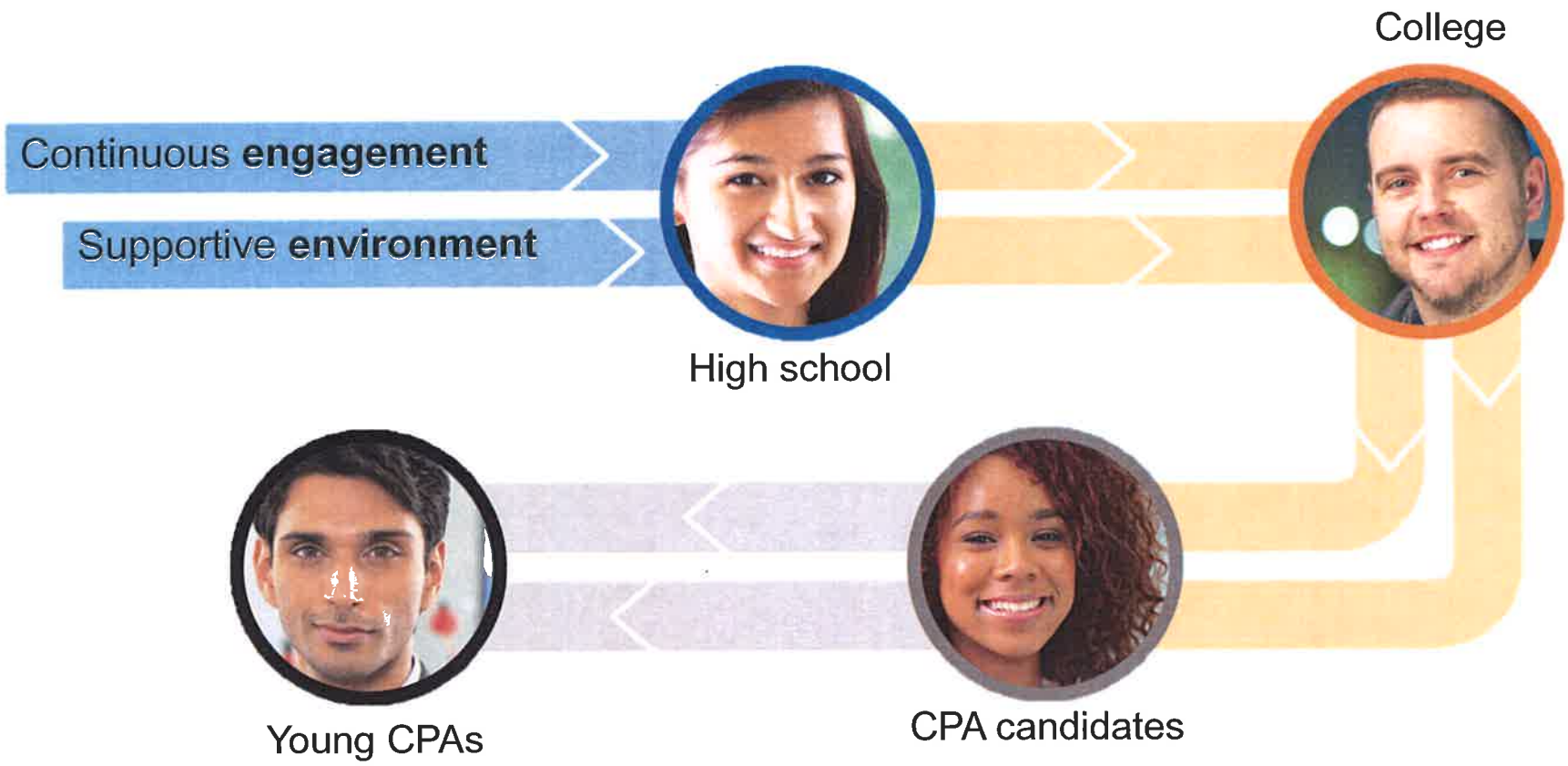
Strongest drivers for those who graduate & plan to pursue CPA

- Employers recruiting on campus
- Specialized majors
- Pro-CPA culture on campus

Strongest factors in actually sitting for the CPA Exam

- Workplace requirements
- Employer covers cost
- Workplace flexibility and encouragement

Building the Pipeline



More Major Pipeline Initiatives

State Society Pilot

Scholarships

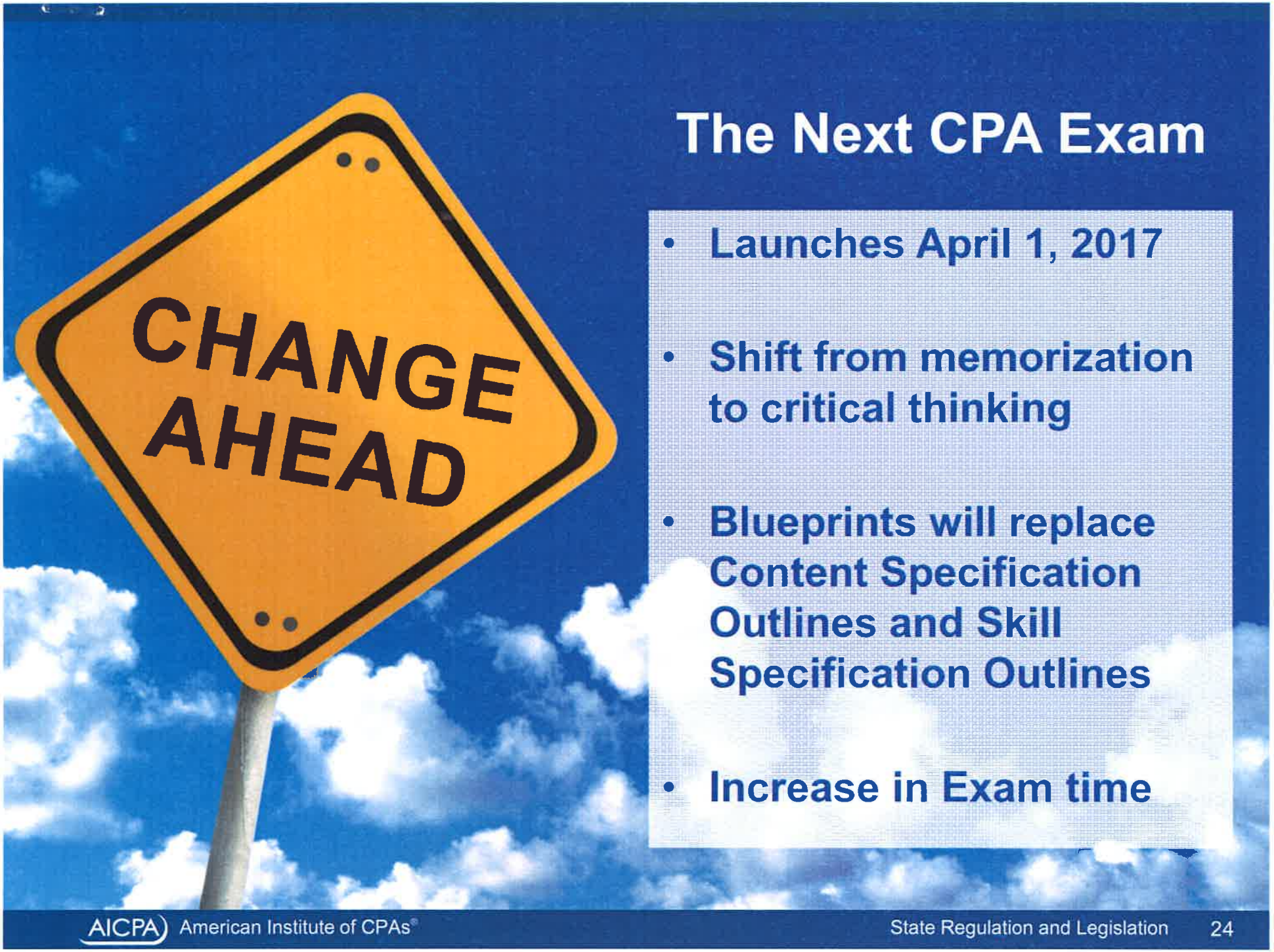
High School Honors Course

Academic in Residence

Campus Champion Program

Changes to Exam Administration

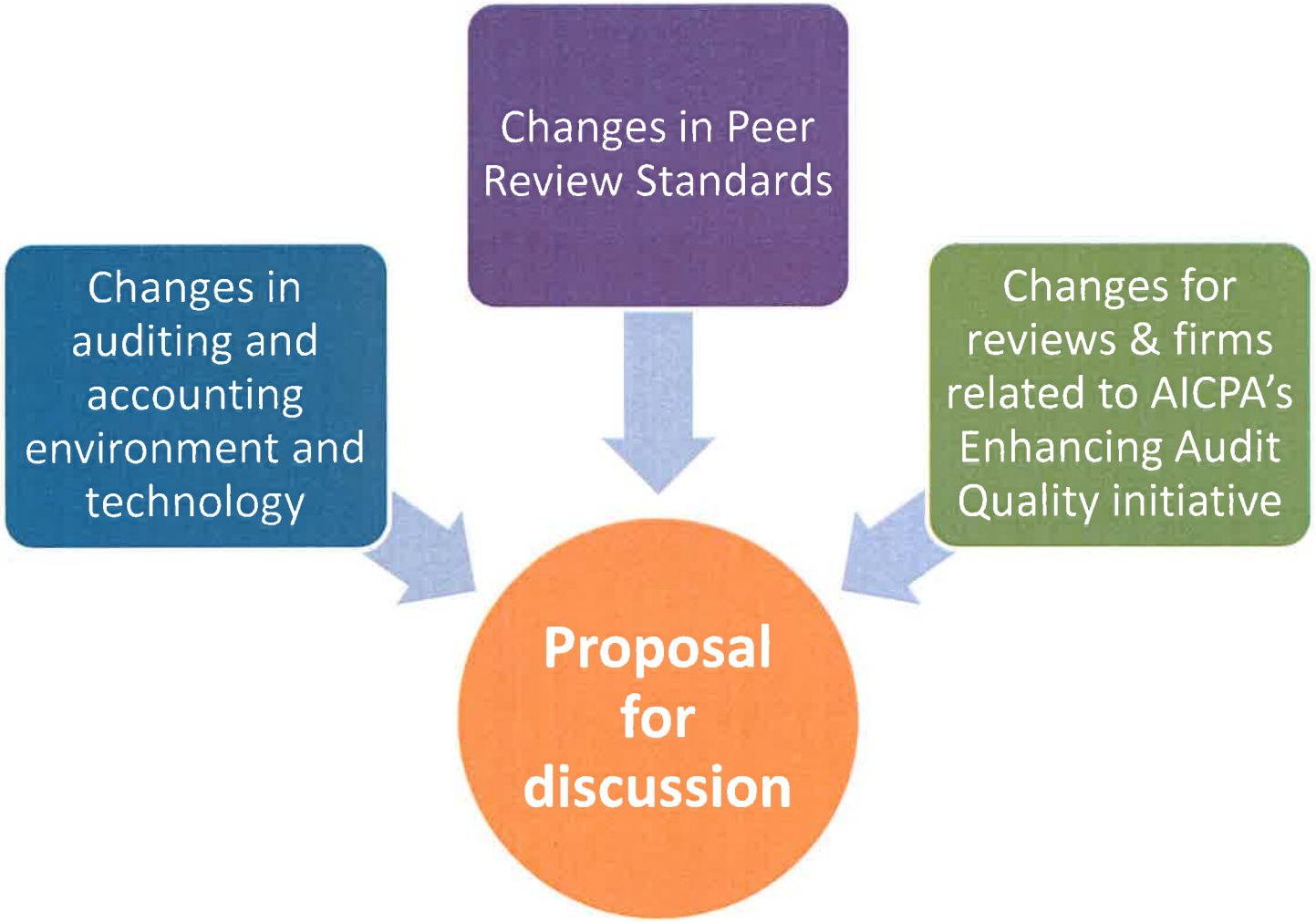
- Cost increase
- 10-day extension of test window
- Delay in score reporting in first window



The Next CPA Exam

- Launches April 1, 2017
- Shift from memorization to critical thinking
- Blueprints will replace Content Specification Outlines and Skill Specification Outlines
- Increase in Exam time

Evolution of Peer Review Administration



Goals

- Improve existing process
- Reduce inconsistencies
- Improve timeliness of review acceptance

Next Steps

- Proposed criteria, including number of AEs, not fixed
- No specific fee increases, but costs to firms expected to increase
- Many qualified reviewers available
- PRB met with NASBA Compliance Assurance Committee to begin collaborative process of development of state board oversight model

State society feedback: Aug. 1

State board feedback: Oct. 31

Thank you.

Email: smcconnel41@gmail.com

CERTIFIED PUBLIC ACCOUNTANT LICENSING ACT

58-26a-101. Short title.

This chapter is known as the "Certified Public Accountant Licensing Act."

58-26a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Accounting experience" means applying accounting and auditing skills and principles that are taught as a part of the professional education qualifying a person for licensure under this chapter and generally accepted by the profession, under the supervision of a licensed certified public accountant.

(2) "AICPA" means the American Institute of Certified Public Accountants.

(3) (a) "Attest and attestation engagement" means providing any or all of the following ~~financial statement~~ services:

(i) an audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

(ii) a review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);

(iii) an examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE); ~~or~~

(iv) an engagement to be performed in accordance with the standards of the PCAOB; and

(v) any examination, review, or agreed upon procedures engagement to be performed in accordance with the SSAE, other than an examination described in subsection (iii).~~.~~

(b) The standards specified in this definition shall be adopted by reference by the division under its rulemaking authority in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and shall be those developed for general application by recognized national accountancy organizations such as the AICPA and the PCAOB.

(4) "Board" means the Utah Board of Accountancy created in Section 58-26a-201.

(5) "Certified Public Accountant" or "CPA" means an individual currently licensed by this state or any other state, district, or territory of the United States of Americ~~a~~n to practice public accountancy or who has been granted a license as a certified public accountant under prior law or this chapter.

(6) "Certified Public Accountant firm" or "CPA firm" means a qualified business entity holding a valid registration as a Certified Public Accountant

firm under this chapter.

(7) "Client" means the person who retains a licensee for the performance of one or more of the services included in the definition of the practice of public accountancy. "Client" does not include a CPA's employer when the licensee works in a salaried or hourly rate position.

(8) "Compilation" means providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is presenting, in the form of financial statements, information that is the representation of management or owners, without undertaking to express any assurance on the statements.

(9) "Experience" means:

(a) accounting experience;

(b) professional experience.

(10) "Licensee" means the holder of a current valid license under this chapter.

(11) "NASBA" means the National Association of State Boards of Accountancy.

(12) "PCAOB" means the Public Company Accounting Oversight Board.

(13) "Practice of public accounting" means the offer to perform or the performance by a person holding himself out as a certified public accountant of one or more kinds of services involving the use of auditing or accounting skills including the issuance of reports or opinions on financial statements, performing attestation engagements, the performance of one or more kinds of advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters for a client.

(14) "Peer review" means a study, appraisal, or review of one or more aspects of the professional work of a person or qualified business entity in the practice of public accountancy, by a licensee or any other qualified person in accordance with rules adopted pursuant to this chapter and who is not affiliated with the person or qualified business entity being reviewed.

(15) "Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and licensure by endorsement.

(16) "Professional experience" means experience lawfully obtained while licensed as a certified public accountant in another jurisdiction, recognized by rule, in the practice of public accountancy performed for a client, which includes

expression of assurance or opinion.

(17) "Qualified business entity" means a sole proprietorship, corporation, limited liability company, or partnership engaged in the practice of public accountancy.

(18) "Qualified continuing professional education" means a formal program of education that contributes directly to the professional competence of a certified public accountant.

(19) "Qualifying examinations" means:

(a) the AICPA Uniform CPA Examination;

(b) the AICPA Examination of Professional Ethics for CPAs;

(c) the Utah Laws and Rules Examination; and

(d) any other examination approved by the board and adopted by the division by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(20) (a) "Report" means:

(i) when used with reference to any attest or compilation service, means~~financial statements,~~ an opinion, report or other form of language that:

(A) states or implies assurance as to the reliability of ~~any~~ the attested information or compiled financial statements; or

(B) implies that the person or firm issuing it has special knowledge or competence in accounting or auditing and specifically includes compilations and reviews; such an implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is a public accountant or auditor, or from the language of the report itself; or

(ii) any disclaimer of opinion when it is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to or language suggesting special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.

(b) "Report" does not include a financial statement prepared by an unlicensed person if:

(i) that financial statement has a cover page which includes essentially the following language: "I (we) have prepared the accompanying financial statements of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing, in the form of financial statements, information that is the representation of management~~ent~~ (owners). I (we) have not audited, ~~or~~ reviewed, compiled or examined the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them."; and

(ii) the cover page and any related footnotes do not use the terms "compilation," "review," "audit,", "examined" "generally accepted auditing standards," "generally accepted accounting principles," or other similar terms.

(21) "Review of financial statements" means performing inquiry and analytical procedures which provide a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with a ~~another~~ special purpose framework ~~comprehensive basis of accounting~~; and, the issuance of a report on the financial statements stating that a review was performed in accordance with the standards established by the American Institute of Certified Public Accountants.

(22) (a) "Substantial equivalency" means a determination by the division in collaboration with the board or its designee that:

(i) the education, examination, and experience requirements set forth in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination, and experience requirements set forth in the Uniform Accountancy Act; or

(ii) an individual CPA's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements set forth in the Uniform Accountancy Act.

(b) In ascertaining whether an individual's qualifications are substantially equivalent as used in this chapter, the division in collaboration with the board shall take into account the qualifications without regard to the sequence in which the education, examination, and experience requirements were attained.

(23) "Uniform Accountancy Act" means the model public accountancy legislation developed and promulgated by national accounting and regulatory associations that contains standardized definitions and regulations for the practice of public accounting as recognized by the division in collaboration with the board.

(24) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-26a-501.

(25) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-26a-502 and as may be further defined by rule.

(26) "Year of experience" means 2,000 hours of ~~cumulative~~ experience under UCA 58-26a and generally accepted by the profession while under ~~experience~~ the supervision of a licensed certified public accountant.

(27) Do we need to have a definition of "jurisdiction" here?

Part 2 -
Board

58-26a-201. Board.

(1) There is created the Utah Board of Accountancy consisting of four licensed certified public accountants and one member of the general public.

(2) The board shall be appointed and shall serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(b) advise the division in its investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer of an administrative proceeding concerning the complaint.

Part 3 -
Licensing

58-26a-301. Licensure or registration required - License and registration classifications.

(1) (a) A license is required for an individual to engage in the practice of public accounting, except as specifically provided in Section 58-26a-305 or 58-1-307.

(b) Registration with the division is required for a qualified business entity to engage in the practice of public accounting, except as specifically provided in Section 58-26a-~~305~~ or 58-1-307.

(2) (a) The division shall issue to an individual who qualifies under this chapter a license in the classification of Certified Public Accountant.

(b) The division shall issue to a qualified business entity which qualifies under this chapter a registration in the classification of Certified Public Accountant Firm.

58-26a-302. Qualifications for licensure and registration - Licensure by endorsement - Transitional provisions.

(1) Each applicant for licensure under this chapter as a certified public accountant shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;
(c) show evidence of good moral character;
(d) submit a certified transcript of credits from an accredited institution acceptable to the board showing:
(i) successful completion of a total of 150 semester hours or 225 quarter hours of collegiate level education with a concentration in accounting, auditing, and business;
(ii) a baccalaureate degree or its equivalent at a college or university approved by the board; and
(iii) compliance with any other education requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
(e) submit evidence of one year of accounting experience in a form prescribed by the division;
(f) submit evidence of having successfully completed the qualifying examinations in accordance with Section 58-26a-306; and
(g) submit to an interview by the board, if requested, for the purpose of examining the applicant' competence and qualifications for licensure.

(2) (a) The division may issue a license under this chapter to a person who holds a license as a certified public accountant issued by any other state, district or territory ~~jurisdiction~~(or do we want to define jurisdiction under 102? Guidance from DOPL needed here) of the United States of America if the applicant for licensure by endorsement:
(i) submits an application in a form prescribed by the division;
(ii) pays a fee determined by the department under Section 63J-1-504;
(iii) shows evidence of good moral character;
(iv) submits to an interview by the board, if requested, for the purpose of examining the applicant's competence and qualifications for licensure; and
(v) (A) (I) shows evidence of having passed the qualifying examinations; and
(II) (Aa) meets the requirements for licensure which were applicable in this state

at the time of the issuance of the applicant's license by the jurisdiction

from which the original licensure by satisfactorily passing the AICPA Uniform CPA Examination was issued; or

(Bb) had four years of professional experience after passing the AICPA Uniform CPA Examination upon which the original license was based, within the ten years immediately preceding the application for licensure by endorsement; or

(B) shows evidence that the applicant's education, examination record, and experience are substantially equivalent to the requirements of Subsection (1), as provided by rule.

(b) This Subsection (2) applies only to a person seeking to obtain a license issued by this state and does not apply to a person practicing as a certified public accountant in the state under Subsection 58-26a-305(1).

(3) (a) Each applicant for registration as a Certified Public Accountant firm shall:

(i) submit an application in a form prescribed by the division;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) have, notwithstanding any other provision of law, a simple majority of the ownership of the Certified Public Accountant firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers, held by individuals who are certified public accountants, licensed under this chapter or another jurisdiction of the United States of America, and the partners, officers, shareholders, members, or managers, whose principal place of business is in this state, and who perform professional services in this state hold a valid license issued under Subsection 58-26a-301(2) or the corresponding provisions of prior law; and

(iv) meet any other requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) Each separate location of a qualified business entity within the state seeking registration as a Certified Public Accountant firm shall register separately.

(c) A Certified Public Accountant firm may include owners who are not licensed under this chapter as outlined in Subsection (3)(a)(iii), provided that:

(i) the firm designates an individual who is a licensee of this state ~~licensee of this state~~ who is responsible for the proper registration of the Certified Public Accountant firm and identifies that individual to the division; and

(ii) all nonlicensed owners are active individual participants in the CPA firm or affiliated entity.

58-26a-303. Term of license and registration - Expiration - Renewal.

(1) The division shall issue each license and registration under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal a licensee shall show satisfactory evidence of each of the following renewal requirements:

(a) completion of qualified continuing education as required under Section 58-26a-304; and

(b) successful completion of a peer review meeting the requirements established by rule by the division in collaboration with the board.

(3) Each license or registration automatically expires on the date shown on the license or registration unless it is renewed in accordance with Section 58-1-308.

58-26a-304. Continuing education.

(1) As a condition precedent for a license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by rule, complete 80 hours of qualified continuing professional education in accordance with standards defined by rule.

(2) A non-resident licensee seeking renewal of a certificate in this state shall be determined to have met the continuing professional education requirement by meeting the CPE requirements for renewal of a certificate in the state in which the licensee's principal place of business is located.

(a) Non-resident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the state in which the licensee's principal place of business is located by signing a statement to that effect on the renewal application of this state.

(b) (b) If a non-resident licensee's principal place of business state has no CPE requirements for renewal of a certificate, the non-resident licensee must comply with all CPE requirements for renewal of a certificate in this state.

(3) If a renewal cycle is extended or shortened under Section 58-26a-303, the continuing education hours required for license renewal under this section shall be increased or decreased proportionally.

(4) (a) A licensee may request a waiver of the requirements of Subsection (1) for a period not exceeding three years by:

(a) submitting an application for waiver in a form approved by the division; and

(b) demonstrating that the licensee will be engaged in activities or

be subject to circumstances which prevent the licensee from meeting the requirements of Subsection (1) during the period of the waiver.

(b) An application for waiver shall be granted upon a showing of good cause.

(c) A licensee who is granted a waiver under this section shall complete 30 hours of continuing professional

education within the six months immediately following the expiration of the waiver that includes at least 16

hours of continuing professional education focusing on auditing and accounting.

58-26a-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in acts included within the definition of the practice of public accountancy, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) a person licensed by any other state, district, or territory of the United States as a certified public accountant or its equivalent under any other title while practicing in this state if:

(i) the person's principal place of business is not in this state; and

(A) the person's license as a certified public accountant is from any state which the National Association of State Boards of Accountancy (NASBA) National Qualification Appraisal Service has verified to be substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act; or

(B) the person's license as a certified public accountant is from a state which the NASBA National Qualification Appraisal Service has not verified to be substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act and the person obtains from the NASBA National Qualification Appraisal Service verification that the person's CPA qualifications are substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act and Subsection 58-26a-302(1)(d)(i); and

(ii) the person consents, as a condition of the grant of ~~this~~ these privileges:

(A) to personal and subject matter jurisdiction and disciplinary authority of the division;

(B) to comply with this chapter and the rules made under this chapter;

(C) that in the event the license from the state of the person's principal place of business becomes invalid, the person shall cease offering or rendering professional services in this state both individually and on behalf of the firm; and

(D) to the appointment of the state board which issued the person's license as the person's agent upon whom process may be served in an action or proceeding brought by the division against the licensee;

(b) through December 31, 2012, a person licensed by any other state, district, or territory of the United States as a certified public accountant or its equivalent under another title while practicing in

this state if:

(i) the person does not qualify for a practice privilege under Subsection (1)(a);

(ii) the practice is incidental to the person's regular practice outside of this state; and

(iii) the person's temporary practice within the state is in conformity with this chapter and the rules established under this chapter.

(c) an officer, member, partner, or employee of any entity or organization who signs any statement or report in reference to the financial affairs of the entity or organization with a designation of that person's position within the entity or organization;

(d) a public official or employee while performing his official duties;

(e) a person using accounting or auditing skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports; or

(f) an employee of a CPA firm registered under this chapter or an assistant to a person licensed under this chapter, working under the supervision of a licensee, if:

(i) neither the employee or assistant nor the licensed employer or registered CPA firm represents that the unlicensed person is a certified public accountant; and

(ii) no accounting or financial statements are issued over the unlicensed person's name.

(2) (a) Notwithstanding any other provision of law, a person who qualifies under Subsection (1)(a) has all the privileges of a licensee of this state and may engage in acts included within the definition of the practice of public accountancy, whether in person or by mail, telephone, or electronic means, based on a practice privilege in this state, and no notice, fee, or other submission shall be provided by that person.

(b) The division may revoke, suspend, or restrict an exemption granted under Subsection (1)(a) or (b), or place on probation or issue a public or private reprimand to a person exempted under those subsections for the reasons set forth in Subsection 58-1-401(2).

58-26a-306. Examination requirements.

(1) Before taking the qualifying examinations, an applicant shall:

(a) submit an application in a form approved by the division;
(b) pay a fee determined by the department under Section 63J-1-504;
(c) demonstrate completion of at least 135 semester hours or 200 quarter hours of the education requirement described in Subsection 58-26a-302(1)(d); and
(d) be approved by the board, or an organization designated by the board, to take the qualifying examinations.

(2) A person must sit for and meeting the conditioning requirements of the AICPA Uniform CPA Examination as established by the AICPA.

58-26a-307. CPA emeritus status - Renewal of license.

(1) A person currently licensed as a certified public accountant may, on any renewal date of that license, apply for and obtain a transfer of that license to a status of CPA emeritus registration if:
(a) (i) the licensee is at least 5560(this is an AICPA change – what are your thoughts?) years of age as of the date of renewal;
(ii) the licensee has a disability; or
(iii) the board finds other good cause for believing that the licensee will not return to the practice of public accountancy;
(b) the licensee makes application for transfer of status and registration and pays a registration fee determined by the department under Section 63J-1-504;
(c) the licensee, on application for transfer, certifies that the licensee may ~~will~~ provide the following volunteer, uncompensated services: tax preparation services, participating in a government sponsored business mentoring program, or serving on the board of directors for a non-profit organization ~~not engage in the practice of public accountancy~~ while in the status of CPA emeritus registration; and
(d) the licensee is in good standing as a CPA and not subject to any order of revocation, suspension, or probation.

(2) Each CPA emeritus registration shall be issued in accordance with a two-year renewal cycle established by rule.

(3) CPA emeritus registrants may only provide the ~~following~~ volunteer, uncompensated services: tax ~~preparation~~ services, participating in a government sponsored business mentoring program, or serving on the ~~board~~ of directors for a non-profit organizations~~not engage in the practice of public accountancy~~.

(4) CPA emeritus registrants are not required to fulfill the continuing professional education or peer review provisions of this chapter.

(5) Each CPA emeritus registrant is responsible for renewing the registration, according to procedures that the division establishes by rule in collaboration with the board in accordance with Section 58-1-308.

(6) A CPA emeritus registrant may reinstate the CPA license by:
(a) submitting an application in a form prescribed by the division;
(b) paying a fee determined by the department under Section 63J-1-504; and
(c) showing evidence of having completed the continuing professional education requirement established by rule.

Part 4 - License Denial

and Discipline 58-26a-401. Grounds for denial of

license - Disciplinary proceedings.

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of any licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

Part 5 - Unlawful and Unprofessional Conduct

58-26a-501. Unlawful conduct.

"Unlawful conduct" includes:

(1) using "certified public accountant," "public accountant," "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant, unless that person:

(a) has a current license as a certified public accountant issued under this chapter; or

(b) qualifies for a practice privilege as provided for in Subsection 58-26a-305(1);

(2) a firm assuming or using "certified public accountant," "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants unless each office of the firm in this state:

(a) is registered with the division; and

(b) meets the requirements of Subsections 58-26a-302(3)(a)(iii) and (iv);

(3) signing or affixing to any accounting ~~or financial~~ statement the person's name or any trade or assumed name used in

that person's profession or business, with any wording indicating that the person is an auditor, or with any wording

indicating that the person has expert knowledge in accounting or auditing, unless that person is licensed under this chapter and all of the person's offices in this state for the practice of public accountancy are maintained and registered as provided in this chapter; and

(4) except as provided in Section 58-26a-305, engaging in the following conduct if not licensed under this chapter to practice public accountancy:

(a) issuing a report ~~on financial statements of~~ any other person, firm, organization, or governmental unit; or

(b) issuing a report using any form of language substantially similar to conventional language used by licensees respecting:

(i) a review of financial statements; or

(ii) a compilation of financial statements.

58-26a-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) undertaking an engagement when the licensee knows or should know that the licensee could not reasonably expect to complete it with professional competence;

(b) making unauthorized disclosures of confidential information obtained in the practice of public accountancy;

(c) engaging in any business or activity that creates a conflict of interest with a licensee's practice in the profession when the licensee knows or should know that it is a conflict of interest and the licensee does not fully disclose the conflict of interest in writing to all affected parties;

(d) failing to meet the requirements for continuing professional education or peer review required under this chapter; or

(e) issuing a report on financial statements of a client, other than a report in which a lack of independence is disclosed, or performing an attest engagement subject to the attestation standards of the American Institute of Certified Public Accountants when the licensee is not independent, in fact and appearance, to the client.

(2) (a) A licensee may not, for a commission, recommend or refer to a client a product or service, or for a commission recommend or refer a product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client:

(i) an audit or review of a financial statement;

(ii) a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

(iii) an examination of prospective financial information.

(b) The prohibition under Subsection (2)(a) applies during:

(i) the period in which the licensee is engaged to perform any of the services listed in Subsection (2)(a); and

(ii) the period covered by any historical financial statements involved in any such listed services.

(c) A licensee who is not prohibited under Subsection (2)(a) from performing services or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

(d) A licensee who accepts a referral fee for recommending or referring a service of a licensee to a person or entity or who pays a referral fee to obtain a client shall disclose the acceptance or payment to the client.

(3) (a) A licensee may not:

(i) perform for a contingent fee a professional service for, or receive a contingent fee from a client for whom the licensee or the licensee's firm performs:

(A) an audit or review of a financial statement;

(B) a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

(C) an examination of prospective financial information; or

(ii) prepare an original or amended tax return or claim for a tax refund for a contingent fee for a client.

(b) The prohibition in Subsection (3)(a) applies during:

(i) the period in which the licensee is engaged to perform any of the services listed in Subsection (3)(a); and

(ii) the period covered by any historical financial statements involved in the listed services.

(c) Except as stated in Subsections (3)(d) and (e), a contingent fee is a fee established for the performance of a

service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is

attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service.

(d) Solely for the purposes of this Subsection (3), fees are not regarded as being contingent if fixed by courts or other public authorities, or in tax matters, if determined based on the results of judicial proceedings or the findings of a governmental agency.

(c) A licensee's fee may vary depending, for example, on the complexity of service rendered.

Part 6 - Regulatory and Operating Standards

58-26a-601. Ownership of statements, records, schedules, working papers, and memoranda made by licensee.

(1) All statements, records, schedules, working papers, and memoranda made by a licensee under this chapter, incident to or in the course of professional service to a client, are the property of the licensee, in the absence of any express agreement between the licensee and the client to the contrary.

(2) A licensee may not sell, trade, or bequeath statements, records, schedules, working papers, or memoranda without the consent of the client or the client's personal representative or assignee to anyone other than another licensee or one or more surviving partners or shareholders or new partners or shareholders of the licensee or any combined or merged CPA firm or successors-in-interest to the CPA firm.

58-26a-602. Privity.

A licensee, a CPA firm registered under this chapter, and any employee, partner, member, officer, or shareholder of a licensee or CPA firm are not liable to persons with whom they are not in privity of contract for civil damages resulting from acts, omissions, decisions, or other conduct in connection with professional services performed by that person, except for:

(1) acts, omissions, decisions, or conduct that constitute fraud or intentional misrepresentations; or

(2) other acts, omissions, decisions, or conduct, if the person performing the professional services:

(a) knew that a primary intent of the client was for the professional services to benefit or influence the particular person seeking to establish liability; and

(b) identified in writing to the client that the professional services

performed on behalf of the client were intended to be relied upon by the particular person seeking to establish liability.

Name of State Board:

Date:

Time frame for enforcement process

We are inquiring whether the timeline for most complaints handled by your Board fall within the listed targets. If not, please provide a short explanation. For example, your board may not be able to close a complaint without Board vote. Therefore, your Board would not meet the stated target of closing a complaint lacking merit within 7 days from complaint initiation. However, since your Board is required to vote on such action and it is not allowed to be handled administratively by staff, this target would not be appropriate for your board's legal structure. Using that example, could you please answer the following items, providing any additional explanatory information you believe might be helpful.

Closing Complaints without merit or primary nexus (Target – 7 days)

Assignment of Investigator (Target – 10 days from decision to initiate investigation)

Completion of Investigation (Target – 180 days or less from initiation of investigation)

Formal Discipline at administrative level – final disposition (Target – 540 days or less from initiation of complaint)

Appointment of probation monitor

Does your board maintain a tracking system with assigned personnel to monitor compliance?

Does your board have assigned personnel to contact probationer within 5 days of beginning probation?

What actions are taken by your Board or required of the licensee in order to ensure compliance with terms of probation?

Initiation of action (re-open complaint) following probation violation (Target – 15 days from notice of violation)

If the answers to any of these questions are no, please explain what circumstances in your particular state make the target unreasonable?

Enforcement Resources to Adequately Staff Investigations

Does your Board identify core tasks to complete investigations and ensure that staff is adequate to meet the current and projected case load?

Would an increase in the number of practice complaints or complaints against large firms require an increase in staffing at your Board? If so, would your Board be able to adjust the staffing as needed?

Do you have investigators specifically assigned to your board?

If not, how are investigations staffed (from a pool, from your board members, etc.)?

How many open investigations does your board typically have on-going at any given time?

What is your typical number of administrative complaints (i.e. CPE, failure to timely renew, etc) opened at any time during a given year?

What is your typical number of practice complaints (i.e. standards violations, fraud or dishonesty, code of conduct violations, etc) opened at any time during a given year?

Qualification and Training of Investigators or People Serving as Investigators

Is specific investigator training required?

Are your investigators encouraged to participating in training, including but not limited to CLEAR investigator training and the NASBA Investigative Training Series?

Do you use experts for complex investigations (including board members)?

Does the board have enough reserve (funding) to bring a big case against a big firm in their state? Or is the cost of such a litigation handled by another entity, such as the Attorney General's Office, etc.?

If the board does not have enough reserve to bring such as case, please answer the following:

1. Have you had any cases during the past 10 years which your board has been unable to prosecute due to lack of funding by the board? If yes, how many such cases in the past 10 years?
2. If this situation has occurred in the past 10 years, were other agencies also prosecuting the alleged violations, such as the SEC, PCAOB, criminal law enforcement, etc?
3. If the funds are not available for a large case in the board's fund, are there legislative or appropriation measures in place in your state for the procurement of such funding if this need arises?

Prioritization of Cases

How does your board identify those cases with greatest potential for harm?

Once identified, how does your board prioritize action on that complaint?

What process do you use to manage complex cases?

Case Management

How does your Board handle an administrative complaint involving violations such as failure to timely renew, failure to obtain CPE, improper firm names, other administrative matters and certain first time misdemeanor offenses which generally pose a lesser threat to the public?

Could these files be closed on voluntary compliance by the licensee?

Could an informal conference be used to assist in reaching a settlement or resolution?

How does your Board handle practice complaints generally involving matters of incompetence, dishonesty, ethics or conduct violations, failure to communicate, criminal convictions, breach of fiduciary duty or disclosure of confidential information which pose a greater threat to the public?

Who would review the investigative results?

Could further investigation be requested if needed?

Could an informal conference be scheduled to aid settlement?

Upon determination of a violation, would either corrective (remedial) action or disciplinary action be taken (either by consent agreement or formal hearing) upon approval of the Board?

Does your board review discipline from other agencies, such as the DOL, SEC, PCAOB, AICPA, etc., either directly from those agencies or through the NASBA Quarterly Enforcement Report?

Does your board actively track probationary compliance, either by having board personnel routinely follow up with probationers or by requiring routine submissions/check-in by the licensee (such as phone calls or correspondence with licensee, requiring licensee to appear at interviews/meetings to report on compliance, requiring licensee to submit written quarterly compliance reports, or requiring licensee to allow a practice investigation upon request of the Board) during the probationary term?

Disciplinary Guidelines

Do written disciplinary guidelines already exist for your board?

If yes, by policy, rule, or what other format?

Does the written guideline identify specific offenses and appropriate penalties (monetary or otherwise)?

How does your board determine discipline and ensure consistency in the application of discipline for similar violations?

If you have disciplinary guidelines, is the board authorized to deviate from them? Under what circumstances? How often does the board do so?

With the understanding that accompanying facts may cause a violation to be more or less egregious in a specific case and therefore move into a different disciplinary category, would you agree that the following categories of violations are **generally appropriate** for the specific penalties listed below? If not, please explain.

a. Grounds for Revocation
    a. Revocation of a license/permit by another agency or board
    b. Failure to inform the Board of a failed peer review
    c. Fraud or deceit in obtaining a license
    d. Conviction of any crime substantially related to the qualifications, functions, or duties of a CPA (involving dishonesty or fraud)
    e. Dishonesty, fraud, or gross negligence in the practice of public accounting
    f. Commission of a felony
b. Grounds for Suspension/Probation
    a. Failure to comply with board order
    b. Failure to meet firm ownership requirements

    c. Failure of a peer review
c. Grounds for Monetary Fine/Penalty
    a. Unlicensed conduct
    b. Failure to comply with professional standards or code of conduct
    c. Failure to renew
    d. Failure to timely complete CPE or peer review
d. Grounds for Remediation
    a. Failure to comply with professional standards
    b. Issues regarding client records/ownership of work papers
    c. Issues regarding confidential disclosures
    d. Unlicensed conduct due to inadvertence (i.e. mobility, multiple designations, foreign accountants, etc.)
    e. Misleading name, title or designation

Does the following list of factors for board consideration substantially reflect the considerations made by your board during the disciplinary process?

a. Factors to consider in assessing penalties
    a. Has the individual or firm already been sanctioned for the action by another State, PCAOB, SEC or others?
    b. Are the sanctions imposed consistent with sanctions that the Board would impose under the circumstances?
    c. Permissible sanctions available to the Board
    d. Mitigating or aggravating factors
    e. Past disciplinary history or "trends" in licensee's behavior
    f. Likelihood of repeating the behavior
    g. Potential for future public harm
    h. Potential for licensee's rehabilitation
    i. Extent of damages or injury due to licensee's behavior
    j. How to best serve and protect the public while implementing corrective action
    k. Board sanctions with similar misconduct in other cases
    l. Other enforcement actions or legal actions against licensee involving the conduct which is the subject of the current case (and impact of those actions/sanctions upon licensee)
    m. Licensee's financial standing regarding ability to pay a penalty
    n. Whether action was a clear violation or was an area of law/rule subject to interpretation
    o. Whether the licensee profited or benefitted from the misconduct
b. Mitigating Factors
    a. Cooperation of the licensee in the investigative/disciplinary process
    b. Passage of time without evidence or other professional misconduct
    c. Convincing proof of rehabilitation
    d. Violation was without monetary loss to consumers and/or restitution was made
    e. If multiple licensees are involved in the violation, the relative degree of culpability of the subject licensee should be considered
c. Aggravating Factors
    a. Failure to cooperate with Board in investigation of complaint and/or disciplinary process (providing requested documentation, timely responses, participating in informal conference)

b. Violation is willful, knowingly committed and/or premeditated
c. Case involved numerous violations of Board's statutes and rules, as well as federal or other state statutes
d. History of prior discipline, particularly where prior discipline is for same or similar conduct
e. Violation results in substantial harm to client, employer and/or public
f. Evidence that licensee took advantage of his client for personal gain, especially if advantage was due to ignorance, age or lack of sophistication of the client

Are there other factors not listed above that are taken into consideration? If so, what are they?

Internet Disclosure

Does your board participate in the ALD and/or CPAVerify databases? If not, why not?

A new tool is being created for ALD that will allow a Board to enter discipline issued against a CPA who is practicing in their jurisdiction through mobility and is not a licensee of that particular Board. When this tool is available, would your Board be willing to participate in sharing "discipline under mobility" in ALD?

Does your board publish final disciplinary action, either on your web site or otherwise? If not, why not?

If discipline is available on your web site, how is it made available to the public? (i.e. within board meeting minutes, in newsletters, searchable through a licensee database, etc)

How does the public find out details about final disciplinary action in your state?

Referral Statistics

In the past five years, how many enforcement notifications or referrals did your board receive from other state boards of accountancy, either directly or through ALD?

Of those notifications or referrals, how many resulted in enforcement actions?

Of those notifications or referrals, how many remain under investigation?

In the past five years, how many matters has your board notified or referred to other state boards of accountancy, either directly or through ALD?