

Responses to the following questions are due via email to Subcommittee staff no later than the 15<sup>th</sup> of the month immediately preceding the month the occupational authorization is scheduled for review by the Subcommittee.

**1. Would consumers be at risk of substantial harm if Arkansas did not have this occupational authorization? What instances of specific and substantial harm have been documented in the past year?**

Yes. The CPA profession is one of the few, if not the only, profession(s) with accountability to third parties. Individuals and businesses depend upon audited financial information in order to make investing, financial planning, and lending decisions. The body of knowledge used by CPAs is technical and comprehensive, as are the accountancy statutes and regulations that govern them, and both especially come into play with enforcement cases.

The regulation of accountants as CPAs serves several essential objectives for Arkansas and the United States. Some of those objectives include:

- a. The CPA licensing structure provides the public with the only individuals qualified to prepare attestation reports on financial statements. These reports, called audits and reviews, evaluate and report objectively on the reliability of financial information. The CPA licensing structure administered by the Arkansas State Board of Public Accountancy helps ensure the availability of individuals qualified to prepare these reports in accordance with uniform standards. The public financial markets, the banking systems, and the insurance systems in Arkansas and the United States not only rely on these reports, but also require them. In addition, grant programs administered by this state and the United States require and rely on reports prepared by CPAs. State and federal contractors must also provide audits as a condition of doing business with the government.
- b. The CPA licensing structure provides the public with individuals uniquely qualified to understand and implement state and federal tax structures, which sometimes can be very complex. The availability of this expertise helps the public pay the lawful amount of taxes and thereby provides the governing structure with the monies needed

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to fund government programs. Qualified CPAs licensed by this state are admitted to practice before the United States Tax Court and, in that capacity, also serve to administer justice in the interests of Arkansans.

- c. The CPA licensing structure provides the state with individuals qualified to perform key state services. The State of Arkansas employs CPAs to perform several key state government functions including auditing government accounts, as the State has constitutionally provided for its own legislative auditor to serve as its fiscal advisor and to perform audits of fiscal records of the state, its agencies and political subdivisions.
- d. The CPA licensing structure provides the public with individuals uniquely qualified to manage and foster wealth. This ready availability of expertise to the general public promotes the State's objectives of improving the welfare of its citizens.

All the consumer complaints received in the past year are either still ongoing except one, which was closed because no violations were found.

**2. How many complaints were made to the occupational entity by consumers being harmed by unauthorized practitioners? What specific action was taken by the occupational entity?**

The Accountancy Board receives approximately 8 to 10 complaints each year regarding non-licensed CPAs. This figure is an approximation as these complaints are not logged. The consumer is informed that, since the unauthorized practitioner is not a licensee, the Board has no jurisdiction in the matter. The consumer is instructed to contact a lawyer or the Attorney General's Office.

**3. How many complaints were made to the occupational entity by consumers being harmed by authorized practitioners? What specific action was taken by the occupational entity?**

There were 5 complaints logged by consumers against CPAs in 2022, 14 in 2021, and 5 in 2020. On average, the Board logs 130 complaints each year, with 10 of those being complaints from consumers. The other complaints stem from Continuing Professional

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Education (CPE) issues, Peer Review failures, external sanctions (e.g., SEC, PCAOB), reinstatements, and licensees failing to renew or respond.

Most of the complaints from consumers involve the holding of client records or failure to file a tax return. Many of the complaints are resolved immediately after the licensee is contacted by the Board. Many others are closed with no probable cause because the investigation found that no violations had occurred. There are a couple each year that result in disciplinary action taken upon the licensee. Examples of those instances include:

- a. Two separate complaints were received against a licensee for failure to provide client records and not being responsive to client requests. The licensee also did not respond to Board communications sent by certified mail. A hearing was held in which the licensee did not appear. The Board fined the licensee \$1,000 and revoked their CPA license.
- b. A complaint was received against a CPA firm for failure to file the client's business tax returns. Upon investigation, it was discovered that a CPA firm employee had been negligent in submitting the client's payroll tax payments to the appropriate taxing authorities. After reimbursing the client for the unsubmitted tax deposits, the CPA firm was charged with a violation of the Board's Code of Professional Conduct and a \$1,000 penalty was assessed.

**4. Were any applicants who otherwise met authorization requirements denied an authorization in the past year? If so, why?**

No, all applicants who met the requirements and/or rules of the Board were licensed in the past year.

**5. How much does the occupational entity collect annually in fees, and what are annual expenses? How much money does the occupational entity have in reserves?**

Fees collected in FY2023 totaled \$1,029,298.51. Annual expenses for FY2023 totaled \$861,794.64. The total fund balance as of June 30, 2023 is \$1,307,311.97.

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- 6. If the occupational entity has a positive amount in reserves, when was the last time reserve funds were used? For what purpose?**

The last time reserves were used was in 2012 when the Board contracted a consultant to develop an on-line licensing management system to replace the Board's existing system. The initial cost for the system development was \$63,000 which saved the Board \$72,000 over a 5-year period. Before that, reserves were used in 2003 for the purpose of paying Board expenses. Since the Board's reserves had been nearly depleted, licensing fees were raised in 2004 so that revenues would cover annual expenses. Licensing fees have not been changed since 2004.

- 7. Does the occupational entity have any other sources of revenue? Could occupational authorization fees be reduced without causing the occupational entity to be underfunded?**

Licensing fees are the Board's primary source of revenue, with minor amounts of revenue provided by interest on Treasury investments and various miscellaneous fees. The CPA Pipeline is a national concern as most, if not all, states have seen a reduction in the number of newly licensed CPAs. Any reduction in fees could potentially affect the Board's ability to evaluate and process applications, monitor continuing education requirements, investigate complaints, and issue licenses.

- 8. How many applicants for the occupational authorization fail each year? Does the occupational entity track how many applicants that do not progress are veterans, women, or minorities?**

The number of applicants who fail to license is less than 1%. The number of applicants who were denied licensure in the past several years is zero. The Board does not track how many applicants are female or minorities but does track active military, veterans, and their spouses who apply for an expedited or temporary license.

- 9. Can applicants complete the training requirements for this occupational authorization with vocational or non-traditional education (e.g., apprenticeships)? What percentage of applicants complete apprenticeships?**

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One year of experience consisting of 2,000 hours gained within three years of the application date is required for licensure. This experience includes providing any type of services or advice involving the use of accounting, attest, management advisory, financial advisory, tax or consulting skills and includes employment in industry, government, academia, or public practice.

#### **10. In what ways would removal of the occupational authorization or reduction of occupational authorization requirements be harmful to current authorization holders?**

- Interstate mobility would be limited or eliminated for professional accountants based in Arkansas.
  - The Uniform Accountancy Act (UAA), the model law in the regulation of accountancy (much of which has been adopted around the nation), requires licensure in the state of an individual’s principal place of business. UAA 23(a)(3)(C) [“...in the event the license from the state of the individual's principal place of business is no longer valid, the individual will cease offering or rendering professional services in this state individually and on behalf of a firm”].
  - The UAA allows interstate practice mobility only if the other state’s licensure requirements are “substantially equivalent” to the requirements in that state. UAA 6(c)(2); 23(a)(1); 23(a)(2); see similarly Arkansas Code 17-12-311.
  - The UAA requires that other states must be able to serve actions against other states’ licensees through the other states’ boards of accountancy. UAA 23(a)(3)(D) [an out-of-state CPA must consent “to the appointment of the State Board which issued their license as their agent upon whom process may be served in any action or proceeding by this Board against the licensee”].

It should be noted that all States in the Continental United States, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands have been deemed “Substantially Equivalent” as it relates to how an applicant obtains their initial licensure (Education, Exam and Experience needed to obtain licensure). Substantially Equivalency is the essential requirement needed before any jurisdiction can consider adopting interstate practice mobility – which is a practice privilege that permits a licensed CPA in good standing from a substantially equivalent jurisdiction of practice outside of his or her principal place of business without obtaining another license.

- Without a state board, CPAs from other states and, indeed, other countries could be able to practice in Arkansas while Arkansas CPAs would, most likely, no longer have practice privileges in other states.

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- Applications to take the Uniform CPA Examination are only processed by or on behalf of state boards of accountancy. If Arkansas no longer has a state board, its residents will have to apply to boards of accountancy in other jurisdictions. **That would result in inconvenience to Arkansas citizens, and direct or indirect loss of revenue in Arkansas. It might also lower enrollment in Arkansas colleges' accounting programs and could encourage accounting firms to relocate to other states.**
- Arkansas accountants would not be able to practice before the IRS.
  - IRS Circular 230 outlines the scope of who may practice before the IRS. The scope includes “certified public accountants” which are defined as: “any person who is duly qualified to practice as a certified public accountant in any state, territory, or possession of the United States, including a Commonwealth, or the District of Columbia.”
  - If there was no Board of Accountancy and no Practice Act, Arkansas CPAs would have to find another jurisdiction to become licensed in order to practice as a CPA before the IRS.
- Deregulation of CPAs could undermine numerous other state requirements regarding the mandatory use of licensed CPAs in many other areas of state and local government and business.
- Arkansas accountants might not be able to do audits for SEC registrants or be qualified to provide audits for other governmental entities or regulated businesses.
  - For example, the SEC/PCAOB generally requires the use of auditors licensed in their principal places of business. Moreover, the Sarbanes-Oxley Act defines “state regulatory authority” as “State agency or other authority responsible for the licensure or other regulation of the practice of accounting in the State or States having jurisdiction over a registered public accounting firm or associated person thereof.”
  - Arkansas CPAs might not be able to provide other government accounting services or would be at a competitive disadvantage in providing those services.

It should be noted that Accountancy regulation and the Arkansas State Board of Public Accountancy represent one of the most procompetitive and efficient regulatory models in the nation when it comes to reducing trade barriers while ensuring the public protection at every turn.