

HOUSE BILL NO. 1150

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Accountancy)

1 A BILL for an Act to create and enact a new section to chapter 43-02.2 of the North Dakota
2 Century Code, relating to substantial equivalency for obtaining a certificate or license to practice
3 public accountancy; to amend and reenact sections 43-02.2-01, 43-02.2-02, 43-02.2-03,
4 43-02.2-04, 43-02.2-06, 43-02.2-07, 43-02.2-08, 43-02.2-09, 43-02.2-11, 43-02.2-12,
5 43-02.2-15, 43-02.2-16, and 43-02.2-17 of the North Dakota Century Code, relating to certified
6 public accountants and the practice of public accountancy; and to repeal section 43-02.2-05 of
7 the North Dakota Century Code, relating to individual permits to practice public accountancy.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 43-02.2-01 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-02.2-01. Purpose.** It is the policy of this state, and the purpose of this chapter, to
12 promote the reliability of information that is used for guidance in financial transactions or for
13 accounting for or assessing the financial status or performance of commercial, noncommercial,
14 and governmental enterprises. Public interest requires that persons professing special
15 competence in accountancy or offering assurance as to the reliability or fairness of presentation
16 of such information have demonstrated or maintained their qualifications to do so, and that
17 persons who have not demonstrated and maintained such qualifications, including certificate
18 holders not in public practice, not be permitted to hold themselves out as having such special
19 competence or to offer such assurance. Public interest requires that the ~~professional~~ conduct
20 of persons licensed as having special competence in accountancy be regulated in all aspects of
21 ~~the practice of public accountancy~~ their professional work. Public interest requires that a public
22 authority competent to prescribe and assess the qualifications and to regulate the ~~professional~~
23 conduct of practitioners of public accountancy and certificate holders not in public practice be
24 established and that the use of titles ~~relating to the practice of public accountancy~~ which are

1 likely to mislead the public as to the status or competence of the persons using such titles be
2 prohibited.

3 **SECTION 2. AMENDMENT.** Section 43-02.2-02 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-02.2-02. Definitions.** As used in this chapter, unless the context requires
6 otherwise:

- 7 1. "Board" means the state board of accountancy.
- 8 2. "Certificate" means a certificate as "certified public accountant" issued under
9 section 43-02.2-04 or provisions of prior law, or a corresponding certificate as
10 certified public accountant issued after examination under the law of any other
11 state.
- 12 3. "Client" means a person or entity that agrees with a licensee to receive any
13 professional service other than an employer-employee relationship.
- 14 4. "Firm" means a sole proprietorship, a corporation, a partnership, or any
15 combination thereof, or any other entity permitted by law.
- 16 ~~4.~~ 5. "Licensee" means the holder of a certificate, license, or permit issued under
17 ~~section 43-02.2-04, a permit issued under section 43-02.2-05 or 43-02.2-06, or a~~
18 ~~certificate or permit issued under~~ this chapter or prior law.
- 19 ~~5.~~ 6. "Permit" means a permit to practice public accountancy issued under section
20 ~~43-02.2-05 or 43-02.2-06 or 43-02.2-07,~~ prior law, or corresponding provisions of
21 the laws of other states.
- 22 ~~6.~~ 7. "Practice of" or "practicing" public accountancy means the performance or the
23 offering to perform by a person or firm holding out to the public as a licensee, for a
24 client or potential client, ~~of one or more kinds of~~ services involving the use of
25 accounting or auditing skills including the issuance of reports on financial
26 statements, ~~or of one or more kinds of~~ but not including management advisory,
27 financial advisory, or consulting services, bookkeeping services, or the preparation
28 of tax returns or the furnishing of advice on tax matters unless provided by a firm
29 with a permit issued under section 43-02.2-06 or 43-02.2-07.
- 30 ~~7.~~ 8. "Practice review" means a study, appraisal, or review of one or more aspects of the
31 professional work of a ~~person or~~ firm in the practice of public accountancy, by a

1 person or persons who hold certificates and are in the practice of public accounting
2 and who are not affiliated with the person or firm being reviewed.

3 9. "Professional" means arising out of or related to the specialized knowledge or skills
4 associated with certified public accountants or licensed public accountants.

5 & 10. "Report", when used with reference to financial statements, means an opinion,
6 report, or other form of language that states or implies assurance as to the
7 reliability of any financial statements and that also includes or is accompanied by
8 any statement or implication that the person or firm issuing it has special
9 knowledge or competence in accounting or auditing. A statement or implication of
10 special knowledge or competence may arise from use by the issuer of the report of
11 names or titles indicating that the issuer is an accountant, auditor, or is in the
12 business of accounting, or from the language of the report. "Report" includes any
13 form of language that disclaims an opinion when the form of language is
14 conventionally understood to imply any positive assurance as to the reliability of
15 the financial statements referred to or special competence on the part of the
16 person or firm issuing such language. "Report" includes any other form of
17 language that is conventionally understood to imply such assurance or such
18 special knowledge or competence.

19 9- 11. "Rule" means any rule, regulation, or other written directive of general application
20 duly adopted by the board.

21 40- 12. "State" means any state of the United States, the District of Columbia, the
22 Commonwealth of Puerto Rico, the United States Virgin Islands, and Guam.

23 13. "Substantial equivalency" is a determination by the board or its designee that
24 another jurisdiction's education, examination, and experience requirements are
25 comparable to or exceed that of the uniform accountancy act, or that an individual's
26 education, examination and experience qualifications are comparable to or exceed
27 that of the uniform accountancy act.

28 **SECTION 3. AMENDMENT.** Section 43-02.2-03 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **43-02.2-03. State board of accountancy.**

- 1 1. The state board of accountancy consists of five members appointed by the
2 governor. Four members of the board must be residents of this state who hold
3 certified public accountant certificates issued under the laws of this state and one
4 member of the board must be a resident of this state who is a licensed public
5 accountant under the laws of this state. When the number of licensed public
6 accountants in this state drops below twenty-five, the licensed public accountant
7 member requirement ceases to apply, except that the licensed public accountant
8 then serving on the board may complete that term of office and thereafter the
9 board shall consist of five certified public accountants. The terms of office must be
10 arranged so that only one term expires each year on June thirtieth. Successor
11 board member appointments are for terms of five years. Each member of the
12 board shall qualify by taking the oath of office required of civil officers and shall
13 hold office until a successor is appointed and qualified. A vacancy on the board
14 must be filled by appointment by the governor from a list of at least three nominees
15 submitted by the appropriate nominating committee. Any member of the board
16 whose certificate ~~or permit~~ is revoked or suspended automatically ceases to be a
17 member of the board. The governor may remove any member of the board for
18 neglect of duty or other just cause, after a hearing. No person who has served two
19 ~~consecutive~~ complete terms is eligible for reappointment, but appointment to fill an
20 unexpired term may not be considered a complete term for this purpose.
- 21 2. At its first meeting after June thirtieth in each year, the board shall organize by
22 electing one of its members as president, one as secretary, and one as treasurer.
23 The offices of secretary and treasurer may be held by one person. A majority of
24 the board constitutes a quorum.
- 25 3. A member of the board is entitled to compensation in an amount to be fixed by the
26 board for each day or portion of a day spent in the discharge of duties, mileage as
27 provided under section 54-06-09, and reimbursement for actual and necessary
28 expenses incurred in the discharge of official duties.
- 29 4. All expenses incident to examinations under this chapter, expenses of preparing
30 and issuing certificates and ~~licenses~~ permits, travel expenses and other allowable
31 expenses of the members of the board, and stationery, printing, clerk hiring, and

1 other office expenses must be paid by the board from the fees collected by it, and
2 no expense incurred under this chapter may be a charge against the funds of this
3 state. Funds administered by the board may not revert to the state general fund.

4 5. The board has the following powers:

5 a. To administer oaths to all applicants or persons appearing before it in respect
6 to investigations, examinations, or the issuance of certified public accountant
7 certificates.

8 b. To conduct investigations and examinations and issue certificates to properly
9 qualified applicants and ~~licenses permits~~ to properly qualified accountants
10 firms.

11 c. To determine the qualifications of all applicants.

12 d. To employ and establish the salary of an executive director and such other
13 personnel as it deems necessary in administration and enforcement of this
14 chapter. The board may appoint committees or persons, including counsel, to
15 advise or assist the board.

16 e. To take all action that is necessary and proper to effectuate the purposes of
17 this chapter, including the power to sue and be sued in its official name as an
18 agency of this state, to issue subpoenas to compel the attendance of
19 witnesses and the production of documents, to administer oaths, to take
20 testimony, to cooperate with appropriate authorities in other states in
21 investigations and enforcement concerning violations of this chapter and
22 comparable laws of other states, and to receive evidence concerning all
23 matters within its jurisdiction. In case of disobedience of a subpoena, the
24 board may invoke the aid of any court ~~of this state~~ in requiring the attendance
25 and testimony of witnesses and the production of documentary evidence. The
26 board, its members, and its agents are immune from personal liability for
27 actions taken in good faith in the discharge of the board's responsibilities.

28 f. The board may adopt rules governing its administration and enforcement of
29 this chapter and the conduct of licensees, including:

30 (1) Rules governing the board's meetings and the conduct of its business;

- 1 (2) Rules of procedure governing the conduct of investigations and
2 hearings by the board;
- 3 (3) Rules specifying the educational and experience qualifications required
4 for the issuance of certificates under this chapter and the continuing
5 ~~professional~~ education required for renewal of certificates and ~~permits~~
6 licenses;
- 7 (4) Rules of ~~professional~~ conduct including rules relating to independence,
8 integrity, and objectivity; competence and technical standards;
9 responsibilities to the public; and responsibilities to clients;
- 10 (5) Rules specifying actions and circumstances that must be deemed to
11 constitute holding oneself out as a licensee in connection with the
12 practice of public accountancy;
- 13 (6) Rules governing the manner and circumstances of use, ~~by holders of~~
14 ~~certificates who do not also hold permits under this chapter~~, of the titles
15 "certified public accountant", "CPA", "licensed public accountant", and
16 "LPA";
- 17 (7) Rules concerning substantial equivalency;
- 18 (8) Rules regarding practice reviews that may be required to be performed
19 under this chapter; and
- 20 ~~(8)~~ (9) Other rules the board deems necessary or appropriate for implementing
21 this chapter.

22 **SECTION 4. AMENDMENT.** Section 43-02.2-04 of the 1997 Supplement to the North
23 Dakota Century Code is amended and reenacted as follows:

24 **43-02.2-04. Certified public accountants.**

- 25 1. The board shall grant the certificate of "certified public accountant" to any ~~resident~~
26 person of good moral character who meets the requirements of this section.
- 27 2. ~~The board may refuse to grant a certificate on the grounds~~ For the purposes of this
28 chapter, good moral character means the lack of a history of dishonest or felonious
29 acts. The board may refuse to grant a certificate on the grounds of failure to
30 satisfy this requirement only if there is a substantial connection between the lack of
31 good moral character of the applicant and the professional responsibilities of a

- 1 licensee and if the finding by the board of lack of good moral character is
2 supported by clear and convincing evidence. When an applicant is found to be
3 unqualified for a certificate because of a lack of good moral character, the board
4 shall furnish the applicant a statement containing the findings of the board, a
5 complete record of the evidence upon which the determination was based, and a
6 notice of the applicant's right of appeal.
- 7 3. The board shall issue a certificate to a holder of a certificate issued by another
8 state, provided that that state extends similar reciprocity to the certificate holders of
9 this state, and upon a showing that:
- 10 a. The applicant passed the examination required for issuance of the certificate
11 with grades that would have been passing grades at the time in this state;
- 12 b. The applicant:
- 13 (1) Meets all current requirements ~~except residence~~ in this state for
14 issuance of a certificate, at the time application is made; or
- 15 (2) At the time of the issuance of the applicant's certificate in the other
16 state, met all such requirements ~~except residence~~ then applicable in
17 this state; and
- 18 c. ~~The applicant meets the requirements of section 43-02.2-05, if applying for a~~
19 ~~permit.~~
- 20 d. The applicant has paid the applicable fees.
- 21 4. The board shall issue a certificate to a holder of a recognized ~~professional~~
22 accounting designation from a jurisdiction or organization outside of the United
23 States, provided such jurisdiction or organization extends similar reciprocity to the
24 certificate holders of this state, and upon a showing to the board's satisfaction that
25 the applicant:
- 26 a. Meets the good moral character requirement of subsection 2;
- 27 b. Meets the substantial equivalent of the education requirements of
28 subsection 5 and the experience requirements of subsection 14 at the time of
29 application, or at the time of the issuance of the designation by the other
30 jurisdiction or organization met the education ~~or~~ and experience requirements
31 then applicable in this state;

- 1 c. Has completed examinations generally equivalent to those prescribed under
2 subsection 6;
- 3 d. Has satisfactorily completed any additional examinations that the board
4 prescribes; and
- 5 e. Has paid the applicable fees; ~~and.~~
- 6 f. ~~Meets the requirements of section 43-02.2-05, if applying for a permit.~~
- 7 5. The education requirement for a certificate is as follows:
- 8 a. Through December 31, 1999, a baccalaureate degree or its equivalent
9 conferred by a college or university acceptable to the board, ~~with~~ and an
10 accounting concentration or equivalent as determined by board rule to be
11 appropriate, or four years of public accounting experience on one's own
12 account or in the office of a public accountant in active practice, or in an
13 accounting or auditing position with the government of the United States or a
14 state.
- 15 b. After December 31, 1999, at least one hundred fifty semester hours of college
16 education including a baccalaureate or higher degree or their equivalent
17 conferred by a college or university acceptable to the board, the total
18 educational program to include an accounting concentration or equivalent as
19 determined by board rule to be appropriate. An individual who on March 1,
20 2000, holds credit for two or more parts of the examination passed in
21 accordance with board rules may obtain a certificate under subdivision a of
22 provided the individual passes any remaining parts of the examination in
23 accordance with board rule.
- 24 6. The ~~examinations~~ examination required to be passed as a condition for the
25 granting of a certificate must ~~be in writing and must~~ test the applicant's knowledge
26 of the subjects of accounting and auditing. A grade of seventy-five percent is
27 required in each subject to constitute a passing grade. The time for holding the
28 examination must be fixed by the board and may be changed from time to time.
29 The board may prescribe by rule the methods of applying for and conducting the
30 ~~examinations~~ examination, including methods for grading papers and determining
31 a passing grade required of an applicant for a certificate provided that the board to

- 1 the extent possible sees to it that the grading of the examination and the passing
2 grade requirements are uniform with those applicable in all other states. The board
3 may use all or any part of the uniform certified public accountant examination and
4 advisory grading service of the American institute of certified public accountants
5 and may contract with third parties to perform administrative services with respect
6 to the examination it deems appropriate to assist it in performing its duties. The
7 board may prohibit a candidate from taking the examination if the candidate does
8 not intend to complete the educational requirements of this section within six
9 months after application.
- 10 7. An applicant must pass ~~all sections of~~ the examination provided for in
11 subsection 6, as specified by rule, in order to qualify for a certificate. ~~If at a given~~
12 ~~sitting of the examination an applicant passes two or more but not all sections, then~~
13 ~~the applicant must be given credit for those sections passed and need not sit for~~
14 ~~reexamination in those sections, provided that:~~
- 15 a. ~~The applicant wrote all sections of the examination at that sitting;~~
16 b. ~~The applicant attained a minimum grade of forty percent on each section not~~
17 ~~passed at that sitting but this requirement does not apply to an applicant who~~
18 ~~has passed three sections at a given sitting;~~
19 c. ~~The applicant passes the remaining sections of the examination within the six~~
20 ~~consecutive examinations given after the one at which the first sections were~~
21 ~~passed;~~
22 d. ~~At each subsequent sitting at which the applicant seeks to pass any additional~~
23 ~~sections, the applicant writes all sections not yet passed; and~~
24 e. ~~In order to receive credit for passing additional sections in any such~~
25 ~~subsequent sitting, the applicant attains a minimum grade of forty percent on~~
26 ~~sections written but not passed on such sitting.~~
- 27 8. An applicant must be given credit for any and all sections of an examination
28 passed in another state if such credit would have been given under then applicable
29 requirements, if the applicant had taken the examination in this state.
- 30 9. The board may in particular cases waive or defer any of the requirements of
31 subsections 7 and 8 regarding the circumstances ~~in~~ under which ~~the various~~

- 1 ~~sections of~~ the examination must be passed, upon a showing that, by reason of
2 circumstances beyond the applicant's control, the applicant was unable to meet the
3 requirement.
- 4 10. The board may charge, or provide for a third party administering the examination to
5 charge, each applicant a fee, in an amount prescribed by the board by rule, for
6 ~~each section of the~~ examination or reexamination ~~taken by the applicant~~.
- 7 11. A certificate of certified public accountant must be ~~issued and~~ renewed each year,
8 with renewal subject to payment of fees and any other requirements prescribed by
9 the board.
- 10 12. The board may require examination of other related subjects as specified by rule.
- 11 13. Applicants for initial issuance or renewal of certificates under this section shall list
12 in the applications all states and jurisdictions in which they have applied for or hold
13 certificates or permits or other recognized ~~professional~~ accounting ~~designations~~
14 designation, and each holder of or applicant for a certificate under this section shall
15 notify the board in writing, within thirty days after its occurrence, of any issuance,
16 denial, revocation, or suspension of a certificate or permit or other recognized
17 ~~professional~~ accounting designation by another state or jurisdiction.
- 18 14. After December 31, 2000, an applicant for initial issuance of a certificate under this
19 section shall show that the applicant has had one year of experience. This
20 experience must include providing any type of service or advice involving the use
21 of accounting, attest, management advisory, financial advisory, tax, or consulting
22 skills. This experience must be verified and must meet any other requirements
23 prescribed by the board by rule. This experience is acceptable if it was gained
24 through employment in government, industry, academia, or public accounting.
25 This experience requirement does not apply to those who received a certificate
26 from this state prior to January 1, 2000.
- 27 15. The board may require by rule, as a condition for granting and renewal of
28 certificates under this section, that applicants show completion of continuing
29 education meeting requirements of board rule. The continuing education rules may
30 include provisions for exceptions and must include reasonable provision for an

1 applicant who cannot meet the continuing education requirements due to
2 circumstances beyond the applicant's reasonable control.

3 16. As an alternative to the requirements of subsection 3, the board shall issue a
4 certificate to an individual who holds a certificate from another state, who
5 establishes the individual's principal place of business within this state and has
6 submitted the applicable application and fees, provided that the individual or the
7 other state has attained substantial equivalency.

8 **SECTION 5. AMENDMENT.** Section 43-02.2-06 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **43-02.2-06. Permits to practice - Firms.**

- 11 1. ~~Each firm that engages in the practice of public accounting~~ A firm must hold a firm
12 permit issued by the board, in order to practice public accounting or to use the
13 titles "CPAs", "LPAs", "CPA firm", "LPA firm", or similar titles. The board shall
14 grant or renew permits to practice public accountancy to firms that make
15 application and demonstrate their qualifications in accordance with this section.
- 16 2. Permits must be issued and renewed on an annual basis. Applications for permits
17 must be made in the form the board specifies. The board shall grant or deny any
18 application no later than ninety days after the application is filed in proper form. If
19 the applicant seeks the opportunity to show that issuance or renewal of a permit
20 was mistakenly denied or if the board is not able to determine whether it should be
21 granted or denied, the board may issue to the applicant a provisional permit, which
22 expires ninety days after its issuance or when the board determines whether or not
23 to issue or renew the permit for which application was made, whichever occurs
24 first.
- 25 3. An applicant for initial issuance or renewal of a permit to practice under this section
26 must show that ~~each partner, officer, or shareholder who regularly works in this~~
27 ~~state, and each employee who holds out as a licensee and who regularly works in~~
28 ~~this state, holds a valid individual permit to practice issued under section~~
29 ~~43-02.2-05 or the corresponding provision of prior law and that each other partner,~~
30 ~~officer, or shareholder holds a certificate or similar professional accounting~~
31 ~~designation and is licensed to practice public accountancy in some other state or~~

- 1 ~~jurisdiction~~ notwithstanding any other provision of law, a simple majority of the
2 ownership of the firm, in terms of financial interests and voting rights, belongs to
3 licensees of a state or other recognized jurisdiction and that all certified public
4 accountants or licensed public accountants associated with the firm whose
5 principal place of business is in this state and who perform professional services in
6 this state hold a valid certificate or license issued by this state. The firm and its
7 owners must comply with all board rules regarding ownership.
- 8 4. An applicant for initial issuance or renewal of a permit to practice under this section
9 is required to register each office of the firm within this state with the board ~~and to~~
10 ~~show that each office is under the charge of a person holding a valid permit to~~
11 ~~practice issued under section 43-02.2-05 or the corresponding provision of prior~~
12 ~~law.~~
- 13 5. The board shall charge a fee for each application for initial issuance or renewal of a
14 permit under this section in an amount prescribed by the board by rule.
- 15 6. Applicants for initial issuance or renewal of permits under this section shall in their
16 applications list all states and jurisdictions in which they have applied for or hold
17 permits to practice public accountancy or similar authorizations, and each holder of
18 or applicant for a permit under this section shall notify the board in writing, within
19 thirty days after its occurrence, of any change in the identities of partners, officers,
20 or shareholders who work regularly within this state, any change in the number or
21 location of offices within this state, any change in the identity of the persons in
22 charge of such offices, and any issuance, denial, revocation, or suspension of a
23 permit by any other state or ~~jurisdictions~~ jurisdiction.
- 24 7. The board may require by rule, on either a uniform or a random basis, as a
25 condition to renewal of permits under this section, that applicants undergo practice
26 reviews conducted no more frequently than once every three years in such manner
27 and producing such satisfactory result as the board specifies; provided that any
28 such requirement must be adopted reasonably in advance of the time when it is
29 first required to be met and must include reasonable provision for compliance by
30 an applicant's showing that it has undergone a satisfactory review performed for
31 other purposes which was substantially equivalent to practice reviews generally

1 required under this subsection and completion of such review was within the three
2 years immediately preceding the renewal period.

3 **SECTION 6. AMENDMENT.** Section 43-02.2-07 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-02.2-07. Licensed public accountants and firms of public accountants.**

6 Persons ~~and firms~~ who on the effective date of this Act ~~chapter~~ hold ~~registrations as licensed~~
7 ~~public accountants~~ accountant licenses issued under prior law of this state are entitled to have
8 ~~permits to practice granted and those licenses renewed under sections 43-02.2-05 and~~
9 ~~43-02.2-06~~ provided that they fulfill all requirements for renewal under ~~these provisions~~ this
10 section and subsections 13 and 15 of section 43-02.2-04. ~~If such Firm~~ licensees that hold valid
11 ~~permits to practice under sections 43-02.2-05 and 43-02.2-06,~~ they are entitled to engage in the
12 practice of public accountancy to the same extent and with the same requirements as other
13 holders of such permits and are entitled to use the designations "licensed public accountant"
14 and "LPA", but no other designation, in connection with the practice of public accountancy.
15 Licensed public accountant licenses and firm permits must be renewed annually, with renewal
16 subject to payment of fees and any other requirements prescribed by the board.

17 **SECTION 7. AMENDMENT.** Section 43-02.2-08 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **43-02.2-08. Appointment of secretary of state as agent.** Application by a person or
20 a firm not a resident of this state for a certificate under section 43-02.2-04 or a permit to
21 practice under section ~~43-02.2-05 or~~ 43-02.2-06 constitutes appointment of the secretary of
22 state as the applicant's agent upon whom process may be served in any action or proceeding
23 against the applicant arising out of any transaction or operation connected with or incidental to
24 ~~the practice of public accountancy by the applicant~~ services performed within this state by the
25 applicant.

26 **SECTION 8. AMENDMENT.** Section 43-02.2-09 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **43-02.2-09. Enforcement against holders of certificates and permits licensees.**

29 1. The board may revoke any certificate, license, or permit issued under ~~section~~
30 ~~43-02.2-04, 43-02.2-05, or 43-02.2-06~~ this chapter or corresponding provisions of
31 prior law; suspend any such certificate, license, or permit or refuse to renew any

- 1 such certificate, license, or permit for a period of not more than five years;
2 reprimand, censure, or limit the scope of practice of any licensee; impose an
3 administrative fine not exceeding one thousand dollars; or place any licensee on
4 probation, all with or without terms, conditions, and limitations, for any one or more
5 of the following reasons:
- 6 a. Fraud or deceit in obtaining a certificate, license, or permit;
 - 7 b. Cancellation, revocation, suspension, or refusal to renew ~~authority to engage~~
8 ~~in the practice of public accountancy~~ a certificate, license, or permit in any
9 other state or jurisdiction for any cause;
 - 10 c. Failure, on the part of a holder of a certificate, license, or permit, to maintain
11 compliance with the requirements for issuance or renewal of such certificate,
12 license, or permit or to report changes to the board under section 43-02.2-04,
13 ~~43-02.2-05, or 43-02.2-06, or 43-02.2-07;~~
 - 14 d. Revocation or suspension of the right to practice before any state or federal
15 agency;
 - 16 e. Dishonesty, fraud, or gross negligence in the ~~practice of public accountancy~~
17 performance of services as a licensee or in the filing or failure to file the
18 ~~certificate or permit~~holder's licensee's own income tax returns;
 - 19 f. Violation of any provision of this chapter or rule adopted by the board under
20 this chapter;
 - 21 g. Violation of any rule of ~~professional~~ conduct adopted by the board under
22 section 43-02.2-03;
 - 23 h. Conviction of a felony, or of any crime an element of which is dishonesty or
24 fraud, under the laws of the United States, of this state, or of any other state if
25 the acts involved would have constituted a crime under the laws of this state;
 - 26 i. Performance of any fraudulent act while holding a certificate, license, or
27 permit issued under this chapter or prior law; ~~and~~
 - 28 j. Any conduct reflecting adversely upon the licensee's fitness to ~~engage in the~~
29 ~~practice of public accountancy~~. perform services while a licensee; and
 - 30 k. Making any false or misleading statement or verification, in support of an
31 application for a certificate, license, or permit filed by another.

- 1 2. In lieu of or in addition to any remedy specifically provided in subsection 1, the
2 board may require of a licensee either or both of the following:
- 3 a. A practice review conducted as the board specifies.
4 b. Satisfactory completion of continuing ~~professional~~ education programs the
5 board specifies.
- 6 3. In any proceeding in which a remedy provided by subsection 1 or 2 is imposed, the
7 board may require the respondent licensee to pay the costs of the proceeding.

8 **SECTION 9. AMENDMENT.** Section 43-02.2-11 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **43-02.2-11. Reinstatement.**

- 11 1. If the board has suspended, refused to renew, or revoked a certificate, license, or a
12 permit ~~or refused to renew a certificate or permit~~, the board may modify the
13 suspension or reissue the certificate, license, or permit upon application in writing
14 by the person or firm affected and for good cause shown and payment of a fee
15 established by the board.
- 16 2. The board shall specify by rule the manner in which applications for reinstatement
17 must be made, the times within which they must be made, and the circumstances
18 in which hearings on applications will be held.
- 19 3. Before reissuing or terminating the suspension of a certificate, license, or permit
20 under this section, the board may require the applicant to show successful
21 completion of specified continuing ~~professional~~ education and may make the
22 reinstatement ~~of a certificate or permit~~ conditional and subject to specified
23 conditions, including satisfactory completion of a practice review conducted as
24 specified by the board.

25 **SECTION 10. AMENDMENT.** Section 43-02.2-12 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **43-02.2-12. Unlawful acts.**

- 28 1. A person or firm ~~not holding a valid permit issued under section 43-02.2-05 or~~
29 43-02.2-06 that is not a licensee may not practice or offer to practice public
30 accountancy or issue a report on financial statements of any other person, firm,
31 organization, or governmental unit. ~~This prohibition does~~ Individual licensees may

1 not practice public accountancy unless they do so within a firm that holds a permit
2 issued under this chapter. These prohibitions do not apply to an officer, partner, or
3 employee of any firm or organization affixing a the person's name or signature to
4 any statement or report in reference to the financial affairs of such firm or
5 organization with any wording designating the position, title, or office that the signer
6 holds therein, does not prohibit any act of a public official or employee in the
7 performance of duties as such, and does not prohibit the performance by any
8 persons of other services involving the use of accounting skills, including the
9 preparation of tax returns, management advisory services, and the preparation of
10 financial statements without the issuance of reports thereon. This prohibition does
11 not apply to transactions between manufacturing and sales organizations and their
12 customers when accounting services accompany the sale of products provided that
13 such accounting services are incidental and that any financial report made is
14 clearly titled "unaudited financial report".

15 2. ~~The prohibition contained in subsection 1 is applicable to issuance, by a person or~~
16 ~~firm not holding a valid permit, of a report using any form of language~~
17 ~~conventionally used by licensees respecting a review of financial statements.~~

18 3. ~~The prohibition contained in subsection 1 is applicable to issuance by a person or~~
19 ~~firm not holding a valid permit of a report using any form of language~~
20 ~~conventionally used by licensees with respect to a compilation of financial~~
21 ~~statements.~~

22 4. A person not holding a valid certificate issued under this chapter may not use or
23 assume the title or designation "certified public accountant", or the abbreviation
24 "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or
25 device tending to indicate that the person is a certified public accountant.

26 5- 3. A firm may not practice public accountancy or assume or use the title or
27 designation "certified public accountant", or the abbreviation "CPA", or any other
28 title, designation, words, letters, abbreviation, sign, card, or device tending to
29 indicate that the firm is ~~composed of certified public accountants~~ a certified public
30 accountant firm, unless the firm holds a valid permit issued under ~~section~~

- 1 ~~43-02.2-06, and all partners, officers, and shareholders of the firm hold certificates~~
2 this chapter.
- 3 ~~6-~~ 4. A person may not assume or use the title or designation "licensed public
4 accountant" or the abbreviation "LPA", or any other title, designation, words,
5 letters, abbreviation, sign, card, or device tending to indicate that the person is a
6 licensed public accountant unless the person is registered as provided in section
7 43-02.2-07.
- 8 ~~7-~~ 5. A firm may not practice public accountancy, or assume or use the title or
9 designation "licensed public accountant", the abbreviation "LPA", or any other title,
10 designation, words, letters, abbreviation, sign, card, or device tending to indicate
11 that the firm is ~~composed of licensed public accountants~~ a licensed public
12 accountant firm, unless the firm holds a valid permit issued under ~~section~~
13 ~~43-02.2-06, and all partners, officers, and shareholders of the firm are licensed~~
14 ~~public accountant registrants~~ this chapter.
- 15 ~~8-~~ 6. A person or firm not holding a valid certificate, license, or permit issued under
16 ~~section 43-02.2-05 or 43-02.2-06~~ this chapter may not assume or use the title or
17 designation "certified accountant", "chartered accountant", "enrolled accountant",
18 "licensed accountant", "public accountant", "registered accountant", "accredited
19 accountant", or any other title or designation likely to be confused with the titles
20 "certified public accountant" or "licensed public accountant", or use any of the
21 abbreviations "CA", "~~EA~~", "LA", "PA", "RA", "AA", or similar abbreviation likely to be
22 confused with the abbreviations "CPA" or "LPA". ~~A holder of a certificate who does~~
23 ~~not also hold a permit may use the titles pertaining to the certificate in any manner~~
24 ~~not prohibited by rules adopted by the board under section 43-02.2-03.~~
- 25 ~~9-~~ 7. A person or firm not holding a valid certificate, license, or permit issued under
26 ~~section 43-02.2-05 or 43-02.2-06~~ this chapter may not assume or use any title or
27 designation that includes the words "accountant", "auditor", or "accounting", or
28 other terms in any manner that implies such person or firm holds such a certificate,
29 license, or permit or has special competence as an accountant or auditor. This
30 subsection does not prohibit any officer, partner, or employee of any firm or
31 organization from affixing the person's name or signature to any ~~statement in~~

1 reference to the financial affairs of such firm or organization with any wording
2 designating the position, title, or office that the person holds and does not prohibit
3 any act of a public official or employee in the performance of duties.

4 ~~40.~~ ~~A person holding a certificate may not engage in the practice of public accountancy~~
5 ~~unless the person also holds a valid permit issued under section 43-02.2-05.~~

6 ~~41.~~ ~~8.~~ A person or firm holding a permit under this chapter licensee may not engage in
7 ~~the practice of public accountancy using~~ use a professional or firm name or
8 designation that is misleading ~~about the legal form of the firm, or about the persons~~
9 ~~who are partners, officers, or shareholders of the firm, or about any other matter.~~
10 Names of one or more former partners or shareholders may be included in the
11 name of a firm or its successor.

12 ~~42.~~ ~~9.~~ This section does not apply to a person or firm holding a certification, designation,
13 degree, or license granted in a foreign country entitling the holder to engage in the
14 practice of public accountancy or its equivalent in that country, whose activities in
15 this state are limited to the provision of professional services to persons or firms
16 who are residents of, governments of, or business entities of the country in which
17 the person or firm holds such entitlement. This subsection does not authorize
18 issuing reports with respect to the financial statements of any other persons, firms,
19 or governmental units in this state. A person or firm acting under the authority of
20 this subsection may not use in this state any title or designation other than the one
21 under which the person or firm practices in such country, followed by a translation
22 of such title or designation into the English language, if it is in a different language,
23 and by the name of such country.

24 **SECTION 11. AMENDMENT.** Section 43-02.2-15 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **43-02.2-15. Single act evidence of practice.** In any action brought under ~~section~~
27 ~~43-02.2-09, 43-02.2-10, 43-02.2-12, 43-02.2-13, or 43-02.2-14~~ this chapter, evidence of the
28 commission of a single act prohibited by this chapter is sufficient to justify a penalty ~~which must~~
29 ~~include revocation, suspension, refusal to renew, reprimand, censure, fine, probation,~~
30 ~~injunction, restraining order, or conviction or any combination of these penalties,~~ without
31 evidence of a general course of conduct.

1 **SECTION 12. AMENDMENT.** Section 43-02.2-16 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-02.2-16. Confidential communications.** Except by permission of the client
4 engaging a licensee under this chapter, or the heirs, successors, or personal representatives of
5 such client, a licensee or any partner, officer, shareholder, or employee of a licensee may not
6 voluntarily disclose information communicated to the licensee by the client relating to and in
7 connection with services rendered to the client by the licensee ~~in the practice of public~~
8 ~~accountancy~~. Such information is deemed confidential but this section may not be construed as
9 prohibiting the disclosure of information required to be disclosed by the standards of the ~~public~~
10 ~~accounting~~ profession in reporting on the examination of financial statements or as prohibiting
11 disclosures in court proceedings, in investigations or proceedings under section 43-02.2-09 or
12 43-02.2-10, in ethical investigations conducted by private professional organizations, or in the
13 course of practice reviews, or to other persons active in the organization performing services for
14 that client on a need-to-know basis or to persons in the entity who need this information for the
15 sole purpose of assuring quality control.

16 **SECTION 13. AMENDMENT.** Section 43-02.2-17 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **43-02.2-17. Licensees' working papers - Clients' records.**

19 1. All statements, records, schedules, working papers, and memoranda made by a
20 licensee or a partner, shareholder, officer, director, or employee of a licensee,
21 incident to, or in the course of, rendering services to a client ~~in the practice of~~
22 ~~public accountancy~~ while a licensee, except the reports submitted by the licensee
23 to the client and except for records that are part of the client's records, are the
24 property of the licensee in the absence of an express agreement between the
25 licensee and the client to the contrary. A statement, record, schedule, working
26 paper, or memorandum may not be sold, transferred, or bequeathed, without the
27 consent of the client or the client's personal representative or assignee, to anyone
28 other than one or more surviving partners or stockholders or new partners or
29 stockholders of the licensee, or any combined or merged firm or successor in
30 interest to the licensee. This section may not be construed as prohibiting any

- 1 temporary transfer of workpapers or other material necessary in the course of
2 carrying out practice reviews.
- 3 2. A licensee shall furnish to a client or former client, upon request and reasonable
4 notice:
- 5 a. A copy of the licensee's working papers, to the extent that such working
6 papers include records that would ordinarily constitute part of the client's
7 records and are not otherwise available to the client; and
- 8 b. Any accounting or other records belonging to, or obtained from or on behalf
9 of, the client that the licensee removed from the client's premises or received
10 for the client's account. The licensee may make and retain copies of such
11 documents of the client when they form the basis for work done by the
12 licensee.
- 13 3. This section does not require a licensee to keep any workpaper beyond the period
14 prescribed in any other applicable statute.

15 **SECTION 14.** A new section to chapter 43-02.2 of the North Dakota Century Code is
16 created and enacted as follows:

17 **Substantial equivalency.**

- 18 1. An individual whose principal place of business is not in this state, shall have all
19 the privileges of certificate holders and licensees of this state without the need to
20 obtain a certificate or permit under sections 43-02.2-04 or 43-02.2-05, if the
21 individual holds a valid certificate as a CPA from any state that has attained
22 substantial equivalency, or if the individual's CPA qualifications are deemed to
23 meet substantial equivalency. Individuals intending to enter the state under this
24 provision shall submit the applicable application and fees prior to entry. Any
25 licensee of another state exercising the privilege afforded under this section hereby
26 consents, as a condition of the grant of this privilege:
- 27 a. To the personal and subject matter jurisdiction of the board;
- 28 b. To comply with this chapter and the board's rules; and
- 29 c. To the appointment of the state board which issued the person's certificate as
30 the person's agent upon whom process may be served in any action or
31 proceeding by this board against the licensee.

1 2. A licensee of this state offering or rendering services or using the licensee's CPA
2 title in another state is subject to disciplinary action in this state for an act
3 committed in another state for which the licensee would be subject to discipline in
4 the other state. The board shall investigate any complaint made by the board of
5 accountancy of another state.

6 **SECTION 15. REPEAL.** Section 43-02.2-05 of the North Dakota Century Code is
7 repealed.