

CHAPTER 466
PUBLIC ACCOUNTANCY

PART I. GENERAL PROVISIONS

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PART I. GENERAL PROVISIONS

§466-1 Purpose. It is the policy of this State, and the purpose of this chapter to promote the reliability of information that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial and noncommercial enterprises, whether public or private. The public interest requires that persons professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information shall have demonstrated their qualifications to do so, and that persons who have demonstrated and maintained such qualifications be permitted to hold themselves out as having such special competence or to offer such assurance; that the professional conduct of persons licensed as having special competence in accountancy be regulated in a manner consistent with nationally recognized standards of professional conduct; that a public authority competent to prescribe and assess the qualifications and to regulate the professional conduct of practitioners of public accountancy be established; and that the use of titles relating to the practice of public accountancy that are likely to mislead the public as to the status or competence of the persons using such titles be prohibited.

§466-2 Short title. This chapter may be cited as the Public Accountancy Law of 1973.

§466-3 Definitions. When used in this chapter, the following terms have the meanings indicated:

"Attest" means providing the following financial statement services:

- (1) Any audit or other engagement to be performed in accordance with the statements on auditing standards of the American Institute of Certified Public Accountants;
- (2) Any compilation or review of a financial statement to be performed in accordance with the statements on standards for accounting and review services of the American Institute of Certified Public Accountants;
- (3) Any examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements of the American Institute of Certified Public Accountants;
- (4) Any engagement to be performed in accordance with the government auditing standards, also known as the Yellow Book, issued by the United States Government Accountability Office; and
- (5) Any engagement to be performed in accordance with the standards of the Public Company Accounting Oversight Board.

"Board" means the state board of public accountancy established under section 466-4.

"Certified public accountant" means the designation given to a person licensed under section 466-5 or the law of any other state or foreign country.

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Firm" means a sole proprietorship, a corporation, a partnership, a limited liability company, or a limited liability partnership.

"Hawaii attest work" means attest services provided or attest reports issued by an individual or firm licensed and authorized to practice public accountancy in this State or any other state, to any of the following clients:

- (1) An individual who is a resident of this State;
- (2) A person, entity, firm, or trust that is domiciled within this State, or whose principal or home office is physically located within this State; or
- (3) A subsidiary that has a physical presence in this State, and has a separate, stand-alone financial statement or report issued on that subsidiary.

"License" means the document issued by the board to a person designated as a certified public accountant under section 466-5, or a person licensed as a public accountant under section 466-6, or a valid comparable certificate, registration, or license of certified public accountant or public accountant issued after examination under the law of any other state or foreign country, or of a permit issued under section 466-7.

"Partner" means a partner in any general partnership, foreign general partnership, limited liability partnership, or foreign limited liability partnership.

"Partnership" means any general partnership, foreign general partnership, limited liability partnership, or foreign limited liability partnership.

"Peer review" means a study, appraisal, or review of one or more aspects of the professional work of a firm that issues attest reports by a person or persons who hold permits to practice public accountancy under section 466-7 or are licensed to practice public accountancy in any other state and who are not affiliated with the firm being reviewed.

"Permit" means a permit to actively practice public accountancy issued under section 466-7.

"Practice of public accountancy" means the performance or the offering to perform, by a person or firm holding itself out to the public as a licensee, for a client or potential client of one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or of one or more kinds of management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.

"Public accountant" means the designation given to a person licensed under section 466-6, or the law of any other state or foreign country.

"Report", when used with reference to financial statements, means an opinion, report, or other form of language that states or implies the measure of assurance as to the reliability of any financial statements, and that also includes, or is accompanied by, any statement or implication that the firm issuing it has special knowledge or competence in accounting or auditing.

"State" means any state, territory, or insular possession of the United States, except that "this State" means the State of Hawaii.

§466-4 Board of public accountancy. (a) There shall be a board of public accountancy to be known as the state board of public accountancy, which shall consist of nine members. All members of the board shall be citizens of the United States and residents of this State. Seven members thereof shall hold current licenses issued under this chapter, of which six of the seven members shall hold current permits to practice public accountancy and be in active practice; and two shall be public members.

(b) The governor shall remove or suspend any member of the board for cause, in accordance with section 26-34, including any member thereof:

- (1) Who ceases to engage in active practice as a certified public accountant or as a public accountant, as the case may be; or
- (2) Whose license of certified public accountant or of public accountant, as the case may be, or whose permit to practice public accountancy:
 - (A) Has been canceled, revoked, or suspended;
 - (B) Has expired without renewal; or
 - (C) Has otherwise become invalid.
- (c) The director shall employ clerks, proctors, examiners, and other personnel under chapters 76 and 77 to assist the board in the performance of its duties.
- (d) In addition to any other powers and duties authorized by law, the board, in accordance with chapter 91 shall:
 - (1) Initiate investigations and hearings, either upon complaint or on its own motion on any matter involving the conduct of certified public accountants, public accountants, or firms, or the violation of any of the provisions of this chapter or the rules of the board;
 - (2) Adopt, amend, and repeal rules governing the administration and enforcement of this chapter and the conduct of the licensees, as it deems appropriate to establish and maintain high standards of competence and integrity in the practice of public accountancy;
 - (3) Grant, deny, suspend, or revoke licenses that are authorized by this chapter and impose such conditions as may be necessary in connection with the granting, denial, suspension, or revocation of licenses;
 - (4) Prescribe the proof to be furnished for the issuance of a duplicate license in place of one alleged to have been lost or destroyed, including a requirement for any indemnity deemed appropriate to the case; and
 - (5) Grant, renew, forfeit and restore permits to practice that are authorized by this chapter and impose such conditions as may be necessary in connection with the granting, renewal, forfeiture and restoration of permits.

§466-5 License of certified public accountant. (a) A license and a permit are required to practice public accountancy. The board may license and grant the designation of "certified public accountant" to any person who has met the following:

- (1) Attained eighteen years of age;
- (2) Possesses a history of competence, trustworthiness, and fair dealing;
- (3) Educational requirements of this section or section 466-5.5;
- (4) Experience requirements of subsection (d);
- (5) Examination requirements of subsection (e); and
- (6) Paid the appropriate fees and assessments.
- (b) The educational requirement for a license shall include a baccalaureate degree conferred by a college or university recognized by the board and:
 - (1) Completion of not less than thirty semester hours of study in addition to those semester hours required for a baccalaureate degree. The baccalaureate degree and the thirty semester hours of additional study shall include a minimum of eighteen semester hours of upper division or graduate level accounting or auditing subjects.

The content of the additional qualifying hours of study shall be determined by rules adopted by the board pursuant to chapter 91; or

- (2) If the applicant has a minimum of eighteen semester hours of upper division or graduate level accounting and auditing subjects, the applicant may elect to replace the thirty semester hours with an additional thirty months of professional experience in a public accounting practice. This experience shall not be credited toward the experience requirements in subsection (d).

(c) A person shall be exempt from the requirements in subsection (b) or section 466-5.5 if that person:

- (1) Holds a current license as a public accountant under section 466-6; or

- (2) Holds, and has continued to hold, a valid comparable certificate, registration, or license of certified public accountant of another state for a period of not less than ten years preceding the date of the person's application under this section, and has been in active practice of public accountancy in one or more states for a period of not less than five years preceding the date of the application.

(d) Each applicant shall present satisfactory evidence in the form of a certified statement from present or former employer(s) that the applicant has met one of the following experience requirements for license:

- (1) Completion of one thousand five hundred chargeable hours in the performance of audits involving the application of generally accepted accounting principles and auditing standards earned while in public accounting practice; or

- (2) Completion of two years of professional experience in public accountancy practice as defined in section 466-3. Completion of experience in private or government accounting or auditing work, deemed by the board to be equivalent to professional experience in public accountancy practice as defined in section 466-3, may be substituted for all or part of the two years of professional experience in public accounting practice. The nature, variety, and depth of acceptable private or government accounting or auditing experience shall be defined by the board in its rules.

(e) The examination required to be passed for licensure shall test the applicant's knowledge of the subjects of accounting theory, accounting practice, auditing, and other related subjects as the board may specify by rule. The board shall prescribe the methods of applying for and conducting the examination, including methods for grading papers and determining a passing grade required by an applicant for a license; provided that the board shall, to the extent possible, see to it that the grading of the examination and the passing grades are uniform with those applicable in all other states. The board may use the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants, and may contract with third parties to perform the administrative services with respect to the examination as the board deems appropriate to assist it in performing its duties herein.

(f) The board may allow an applicant to sit for the Uniform Certified Public Accountant Examination, if the applicant has met at least one of the following:

- (1) Baccalaureate degree in accounting conferred by a college or university acceptable to the board; or

- (2) Baccalaureate degree with a major in a subject other than in accounting, plus eighteen semester hours of upper division or graduate level accounting or auditing subjects, conferred by a college or university acceptable to the board; or
- (3) Baccalaureate degree or its equivalent in accounting, conferred by a college or university outside of the United States, and submission of a letter of acceptance from an accredited United States college or university to its advanced degree program or an educational equivalency report prepared by an evaluator approved by the board.

(g) The board shall prescribe the terms and conditions under which an applicant who has taken the examination prescribed in subsection (e), but who has not satisfactorily completed the examination, may be given credit for any part thereof that the applicant has satisfactorily completed. The board may also provide a specific length of time for an applicant to apply for reexamination.

(h) A person who passed the Uniform Certified Public Accountant Examination under the laws of another state may be exempted from taking the examination required pursuant to subsections (a)(5) and (e). The board shall prescribe the methods and requirements for exemption from examination requirements. The board shall prescribe the methods and requirements for exemption for the holder of a valid comparable certificate, registration, or license and a degree from a foreign country.

(i) A person who, on January 1, 1974, holds a license of certified public accountant issued under the laws of this State theretofore existing shall not be required to obtain an additional license of certified public accountant under this chapter, but shall otherwise be subject to all the provisions of this chapter; and the license theretofore issued shall, for all purposes, be considered a license issued under this chapter and subject to the provisions herein.

(j) Licenses shall be effective for a period not exceeding two years and shall be renewable biennially on or before December 31 of every odd-numbered year upon application to the board.

(k) The board may renew the license of a certified public accountant who completes a renewal application and fulfills the following requirements:

- (1) Holds a valid and current license; and
- (2) Paid appropriate fees and assessments.

(l) Failure to renew a license on or before December 31 of every odd-numbered year, shall constitute a forfeiture of license. Continued practice in public accountancy without renewing or restoring a license and permit shall constitute unlicensed activity. Any person engaged in unlicensed activity shall be subject to sections 466-9, 466-11, 487-13, and 26-9.

(m) The board shall specify the method and requirements of application for restoration of a forfeited license. The date of restoration of the license shall be the date of board approval of the restoration. Restorations shall not be retrospective.

§466-5.5 Educational requirements for licensure effective December 31, 2000.

Effective December 31, 2000, an applicant for licensure shall have at least one-hundred-fifty semester hours of college education. Within the one-hundred-fifty semester hours, the applicant shall have:

- (1) A baccalaureate or higher degree conferred by a college or university acceptable to the board; and

(2) An accounting concentration or its equivalent as specified in the rules of the board; except that applicants for licensure who have successfully completed the Uniform Certified Public Accountant Examination before December 31, 2000, or held conditional credit before December 31, 2000, and subsequently completed the examination before the conditional credit expired, may continue to meet the educational requirements of section 466-5(b).

§466-6 License of public accountant. (a) A license and a permit are required to actively practice public accountancy. A person:

- (1) Who has attained eighteen years of age;
- (2) Who possesses a history of competence, trustworthiness, and fair dealing;
- (3) Who was serving in the armed forces of the United States on June 15, 1955;
- (4) Who was a resident of the Territory of Hawaii at the time of entering such service in the armed forces; and
- (5) Who at the time of entering such service, met the requirements set forth in subparagraph (A), (B) or (C) of this subsection, shall, upon application to the board within six months after honorable discharge or release from such service, be licensed by the board as a "public accountant":
 - (A) Any person who held oneself out to the public as being engaged in the practice of public accountancy and who was engaged in the practice of public accountancy as the person's principal occupation, either on the person's own account or as a member of a firm, or as an employee of a certified public accountant, or public accountant, and was regularly assigned to accountancy engagements;
 - (B) Any person who was engaged in accounting or auditing work in the Territory of Hawaii as an employee of the United States, of the Territory, or of any county, in a position in grade GS-9 under the territorial classification schedule in effect on March 1, 1955, or the equivalent or higher grade; or
 - (C) Any person who was engaged in private accounting or auditing who has had not less than three years of experience in such work, or in public accounting, or both, and whose experience was of such a character and for a length of time sufficient in the opinion of the board to be substantially equivalent to three years of public accounting experience.

(b) Licenses shall be effective for a period not exceeding two years and shall be renewable biennially on or before December 31 of every odd-numbered year upon application to the board.

(c) A person who, on January 1, 1974, holds a license of public accountant under the laws of this State theretofore existing, shall not be required to obtain an additional license under this chapter, but shall otherwise be subject to all the provisions of this chapter; and such previous license shall, for all purposes, be considered a license under this chapter and subject to the provisions herein.

§466-7 Permits to practice. (a) A license and permit are required to actively engage in the practice of public accountancy. The board may grant or renew a permit to actively engage in the

practice of public accountancy. Permits shall be initially issued and renewed for periods of two years but in any event shall expire on December 31 of every odd-numbered year. The board shall prescribe the methods and requirements for application.

- (b) An applicant for the initial issuance or renewal of a permit shall have:
 - (1) A valid license;
 - (2) Completed continuing professional education hours, the content of which shall be specified by the board which may provide for special consideration by the board to applicants for permit renewal when, in the judgment of the board, full compliance with all requirements of continuing education cannot reasonably be met;
 - (3) Completed an application;
 - (4) Paid appropriate fees and assessments; and
 - (5) In the case of a renewal, undergone and provided proof of having undergone the peer review process pursuant to part II.
- (c) The board may grant a temporary permit to actively engage in the practice of public accountancy to any person who:
 - (1) Has attained eighteen years of age;
 - (2) Possesses a history of competence, trustworthiness, and fair dealing;
 - (3) Holds a valid license of certified public accountant or of public accountant issued under the laws of another state, or who holds a valid comparable certificate, registration, or license or degree from a foreign country determined by the board to be a recognized qualification for the practice of public accountancy in such other country;
 - (4) Incidental to the person's practice in such other state or country, desires to practice public accountancy in this State on a temporary basis; and
 - (5) Has completed an application.

Such permit shall be effective for a period not exceeding three months, and shall specify the nature and extent of the practice so permitted.

(d) All firms shall obtain a permit to practice. The board may issue or renew a permit to actively engage in the practice of public accountancy to any firm which submits a completed application and demonstrates qualifications as prescribed by the board.

(e) Failure to submit the required fees, continuing education hours, or other requirements for renewal as specified in this section by December 31 of every odd-numbered year, shall constitute forfeiture of the permit. Continued performance in the practice of public accountancy without a permit shall constitute unlicensed activity and the individual or firm shall be subject to sections 466-9, 466-11, 487-13, and 26-9.

(f) The board may restore forfeited permits to the individual or firm which satisfies the following:

- (1) The requirements of subsections (a), (b), (c), or (d) of this section; and
- (2) Payment of required fees.

§466-8 Fees. (a) An application for admission to the examination described in section 466-5(e) shall be accompanied by the application and examination fees. The board may prescribe by rule the terms and conditions upon which an applicant who is unable to attend the examination may receive a credit in the amount of the fee paid toward a subsequent examination.

(b) An application for the issuance of a license of certified public accountant under section 466-5(a) or a license of public accountant under section 466-6(a) shall be accompanied by a license fee.

(c) An applicant for the renewal of a current license of certified public accountant under section 466-5 or for the renewal of a license of public accountant under section 466-6 shall pay a fee biennially in each odd-numbered year on or before December 31. An applicant for the restoration of a forfeited license of certified public accountant or public accountant shall submit with the application for restoration of the forfeited license the renewal fee, a penalty fee equal to the amount of the renewal fee, and a recordkeeping fee for each biennium the license was on forfeited status.

(d) An application for the issuance of a biennial permit to practice for an individual or firm under section 466-7(a) and (d) shall be accompanied by the application and permit to practice fees.

(e) An application for the issuance of a temporary permit to practice under section 466-7(c) shall be accompanied by the application and temporary permit to practice fees.

(f) Any person requesting the board to proctor the certified public accountant examination for another state shall pay a proctoring fee.

(g) All fees shall be established and adopted by the director in accordance with chapter 91 and shall be deposited into the compliance resolution fund established pursuant to section 26-9(o).

§466-9 Disciplinary action. (a) In addition to any other actions or conditions authorized by law, in accordance with chapter 91, the board may take any one or more of the following actions:

- (1) Revoke a license or permit;
- (2) Suspend a license or permit;
- (3) Refuse to renew a license or permit;
- (4) Reprimand, censure, or limit the scope of practice of any licensee or firm;
- (5) Impose an administrative fine not exceeding \$5,000 per violation;
- (6) Place a license or firm on probation;
- (7) Require a firm to have a peer review conducted in the manner specified by the board; or
- (8) Require a licensee to attain satisfactory completion of additional continuing professional education hours as specified by the board.

(b) In addition to any other grounds for disciplinary action authorized by law, any one or more of the following shall constitute grounds for disciplinary action:

- (1) Fraud or deceit in obtaining a license or permit;
- (2) Disciplinary action taken by another state where the license is canceled, revoked, suspended, denied, or refused renewal;
- (3) Failure, on the part of a holder of a license or a permit to maintain compliance with the requirements for issuance of a license or a permit, or renewal of a license or permit, or to report changes to the board;
- (4) Revocation or suspension of the right to practice before any state or federal agency;
- (5) Dishonesty, deceit, fraud, or gross negligence in the practice of public accountancy or in the filing or failure to file a licensee's or firm's own income tax returns;

- (6) Violation of any provision of this chapter or of any rule adopted by the board;
 - (7) Violation of any provision of professional conduct established by the board under this chapter;
 - (8) Conviction of any crime an element of which is dishonesty or fraud, under the laws of the United States, of this State, or of any other state if the act involved would have constituted a crime under the laws of this State;
 - (9) Performance of any fraudulent act while holding a license or permit issued under this chapter; or
 - (10) Any conduct reflecting adversely upon the licensee's or permit holder's fitness to engage in the practice of public accountancy.
- (c) Upon application of any person against whom disciplinary action has been taken under subsection (a), the board, in accordance with chapter 91, may reinstate the person's license or permit to practice which was affected by the disciplinary action.
- (1) The board shall specify the manner in which an application shall be made, the time within which it shall be made, and the circumstances under which the license may be reinstated; and
 - (2) Before reinstating, the board may:
 - (A) Require the applicant to show successful completion of specified continuing professional education; and
 - (B) Make the reinstatement of a license or permit conditional and subject to satisfactory completion of a peer review conducted in a manner as the board may specify.

§466-10 Prohibited acts. (a) Use of title "certified public accountant":

- (1) Except as otherwise provided in subsection (d) of this section, no person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, sign, card, or device likely to be confused with "certified public accountant" or "CPA" or tending to indicate that the person is a certified public accountant, unless the person holds a current license of certified public accountant issued under this chapter and a current permit to practice issued under this chapter;
- (2) No partnership or corporation shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device likely to be confused with "certified public accountant" or "CPA" or tending to indicate that such partnership or corporation is composed of certified public accountants, unless each of the partners of the partnership who are in the practice of public accountancy in this State, or each of the shareholders of the corporation who are in the practice of public accountancy in this State, holds a current license of certified public accountant issued under this chapter and a current permit to practice issued under this chapter; and
- (3) No person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device likely to be confused with "certified public accountant" or "CPA", in conjunction with names indicating or implying that there

is a partnership or corporation, or in conjunction with the designation "and Company" or "and Co." or a similar designation if, in any case, there is in fact no bona fide partnership or corporation existing under the laws of this State.

- (b) Use of title "public accountant":
 - (1) Except as otherwise provided in subsection (d) of this section, no person shall assume or use the title or designation "public accountant" or the abbreviation "PA" or any other title, designation, words, letters, sign, card, or device likely to be confused with "public accountant" or "PA" or tending to indicate that the person is a public accountant unless the person holds a current registration of public accountant issued under this chapter and a current permit to practice issued under this chapter;
 - (2) No partnership or corporation shall assume or use the title or designation "public accountant" or the abbreviation "PA" or any other title, designation, words, letters, abbreviation, sign, card, or device likely to be confused with "public accountant" or "PA" or tending to indicate that the partnership or corporation is composed of public accountants, unless each of the partners of the partnership who are in the practice of public accountancy in this State, or each of the shareholders of the corporation who are in the practice of public accountancy in this State, holds a current license of public accountant issued under this chapter and a current permit to practice issued under this chapter; and
 - (3) No person shall assume or use the title or designation "public accountant" or the abbreviation "PA" or any other title, designation, words, letters, abbreviation, sign, card, or device likely to be confused with "public accountant" or "PA", in conjunction with names indicating or implying that there is a partnership or corporation, or in conjunction with the designation "and Company" or "and Co." or a similar designation if, in any case, there is in fact no bona fide partnership or corporation existing under the laws of this State.
- (c) Representation of special knowledge:
 - (1) No person shall sign or affix the person's name or any trade or assumed name used by the person in the person's profession or business with any wording indicating, suggesting, or implying that the person is an accountant or auditor, or with any wording indicating, suggesting, or implying that the person has special knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:
 - (A) Financial information, or
 - (B) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations, unless the person holds a current license and a current permit to practice issued under this chapter.
 - (2) No person shall sign or affix a partnership or corporate name with any wording indicating, suggesting, or implying that it is a partnership or corporation composed of accountants or auditors or persons having special knowledge of accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:
 - (A) Financial information, or

- (B) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations, unless each of the partners of the partnership who are in the practice of public accountancy in this State or each of the shareholders of the corporation who are in the practice of public accountancy in this State holds a current license of certified public accountant or of public accountant issued under this chapter and a current permit to practice issued under this chapter.
- (d) Nothing contained in this chapter shall prohibit any person:
 - (1) Who holds a current license of certified public accountant issued under this chapter from assuming and using the title and designation "certified public accountant" or "CPA"; provided that if the person does not also hold a current permit to practice issued under this chapter, the person shall clearly indicate in assuming and using said title that the person does not hold the person's self out to be in the practice of public accountancy;
 - (2) Who holds a current license of public accountant issued under this chapter from assuming and using the title and designation "public accountant" or "PA"; provided that if the person does not also hold a current permit to practice issued under this chapter, the person shall clearly indicate in assuming and using the title that the person does not hold the person's self out to be in the practice of public accountancy;
 - (3) Who holds a temporary practice permit issued under this chapter from using the title and designation under which the person is generally known in the state or country from which the person received a valid comparable certificate, registration, or license for the practice of public accountancy;
 - (4) Who is not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant or public accountant; provided that the employee or assistant works under the control and supervision of a person who holds a current license of certified public accountant or of public accountant and a current permit to practice issued under this chapter; and provided further that the employee or assistant does not issue any statement or report over the person's name except office reports to the person's employer as are customary, and that the employee or assistant is not in any manner held out to the public as a certified public accountant or public accountant;
 - (5) Who is an officer, employee, partner, or principal of any organization from signing or affixing the person's name to any statement or report in reference to the affairs of that organization; provided that in so signing or affixing the person's name the person shall clearly indicate that the person is an officer, employee, partner, or principal of the organization, and the position, title, or office which the person holds therein;
 - (6) Who is a public official or public employee from the performance of the person's duties as such; or
 - (7) Who is an attorney at law from engaging in practice as such.

§466-11 Injunctions against prohibited acts. (a) Whenever, as a result of an investigation under section 466-13 or otherwise, the board has reason to believe that any person or firm has engaged, or is about to engage, in any act, or acts, or practices that constitute or will constitute a violation of section 466-10, the board may certify the facts underlying the belief to the attorney general of this State, who shall make application to the appropriate court for an order enjoining the act, or acts, or practices, and, upon a showing by the board that the person or firm has engaged, or is about to engage, in any act, or acts, or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court without bond.

(b) A violation of section 466-10 is a misdemeanor. Whenever the board has reason to believe that any person is liable to punishment under this section it may certify the facts underlying the belief to the county attorney or prosecuting attorney of the county in which the violation occurred who shall cause appropriate proceedings to be brought.

(c) Any person or firm who violates this chapter may be fined not more than \$5,000 for each violation.

(d) The display or uttering by a person or firm of a card, sign, advertisement, or other printed, engraved, or written instrument or device bearing a person's or firm's name in conjunction with the words "certified public accountant" or any abbreviation thereof, of the words "public accountant" or any abbreviation thereof, shall be prima facie evidence in any action brought under subsection (a) or (b) of this section that the person or firm whose name is so displayed, caused or procured the display or uttering of the card, sign, advertisement, or other printed, engraved, or written instrument or device and that the person or firm is holding itself out to be a certified public accountant or public accountant holding a current permit to practice issued under section 466-7.

(e) Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

§466-11.5 Single act evidence of practice. In any action brought under this chapter, evidence of the commission of a single act prohibited by this chapter shall be sufficient to justify a penalty, injunction, restraining order, or conviction, respectively, without evidence of a general course of conduct.

§466-12 Ownership of accountant's working papers. All statements, records, schedules, working papers, and memoranda made by the licensee, partner, shareholder, officer, director, or employee incidental to, or in the course of rendering services to a client in the practice of public accountancy, except reports submitted by the licensee to the client and except for records that are part of the client's records, shall be and remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No statement, record, schedule, working paper, or memorandum shall be sold, transferred, or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners or stockholders or new partners or stockholders of the licensee, or any combined or merged firm or successor in interest to the licensee or operation of law.

§466-13 REPEALED.

§466-14 REPEALED.

§466-15 Advisory committees. (a) The director may establish advisory committees, the members of which shall serve as consultants to the board in their review of certified public accountants and public accountants referred for possible disciplinary action, and as experts to the department for investigation. The advisory committee shall be appointed by the director from a list of certified public accountants and public accountants submitted annually by the board.

(b) Each member of the committee shall serve until a new committee is established, or until the particular case for which the member was designated a consultant or expert has been concluded.

(c) The members of the advisory committee shall serve without compensation, but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(d) No member of the advisory committee shall bear any civil liability for any act done in furtherance of the purpose for which the advisory committee was established.

§466-17 Construction; severability. If any provision of this chapter or the application thereof to any person or entity or in any circumstance is held invalid, the remainder of the chapter and the application of such provision to others or in other circumstances shall not be affected thereby.

[PART II.] PEER REVIEW PROCESS

[§466-31] Definitions. As used in this part, unless the context clearly indicates otherwise: "Rating" means the type of report issued following a peer review. Rating shall be "pass", "pass with deficiency", or "fail".

"Sponsoring organization" means a third-party entity that meets the standards specified by this part for administering a peer review.

[§466-32] Establishment of peer review process; confidentiality. (a) There is established a peer review process to review the attest work of firms. The peer review process shall be for educational or remedial and not punitive purposes.

(b) The peer review process shall keep confidential the identity of any person or firm for whom attest work has been performed by the firm under review.

(c) Neither the proceedings nor the records of any peer review process shall be subject to discovery. No person involved in the peer review process shall be required to testify on that process; provided that statements made by any person in connection with the peer review process

who is a party to an action or proceeding, the subject matter of which was reviewed in that process, shall be subject to discovery.

(d) This part shall not be construed to require any firm to become a member of any sponsoring organization.

[§466-33] Standards for peer reviews and sponsoring organizations. (a) Except as otherwise provided by section 466-36, the board shall adopt the Standards for Performing and Reporting on Peer Reviews and any applicable ethical requirements adopted by the American Institute of Certified Public Accountants and the public company accounting oversight board firm inspection standards for public company audit firms required under the Sarbanes-Oxley Act of 2002, as amended, as its minimum standards for peer reviews.

(b) Subject to sections 466-40 and 466-41, qualified sponsoring organizations shall be the American Institute of Certified Public Accountants peer review program, the Hawaii Society of Certified Public Accountants peer review program, state certified public accountant societies fully involved in the administration of the American Institute of Certified Public Accountants peer review program, the public company accounting oversight board, the board, and other entities that are approved by the board.

[§466-34] Enrollment and participation. (a) Every firm, including the Hawaii offices and Hawaii engagements of foreign or multistate firms, that is required to obtain a firm permit to practice pursuant to section 466-7 shall undergo a peer review every three years. The firm's Hawaii offices, if any, and Hawaii attest engagements shall be included in the scope of the peer review performed in accordance with the American Institute of Certified Public Accountants Standards for Performing and Reporting on Peer Reviews.

(b) All firms subject to this part and performing Hawaii attest work as of December 31, 2014, shall enroll in the applicable program of an approved sponsoring organization by December 31, 2015, notify the board of enrollment in that program, and have a peer review performed by December 31, 2017.

- (c) Any firm that begins performing Hawaii attest work after December 31, 2014, shall:
- (1) Notify the board within thirty days of the beginning of the performance of attest work;
 - (2) Enroll in the applicable programs of an approved sponsoring organization within one year from its initial licensing date or the performance of Hawaii attest work that requires a peer review;
 - (3) Provide the board with enrollment information within one year of the date the Hawaii attest work was first performed;
 - (4) Have a peer review performed within eighteen months of the date the Hawaii attest work was first performed;
 - (5) Adopt the peer review due date assigned by the sponsoring organization and notify the board of the peer review due date within thirty days of its assignment; and
 - (6) Schedule and begin an additional review within three years of the previous review's due date, or earlier if required by the sponsoring organization or the board; provided that the firm shall be responsible for anticipating its needs for peer review services

in sufficient time to enable the reviewer to complete the review by the assigned review due date.

(d) A firm that does not perform Hawaii attest work shall be exempt from the peer review process.

(e) If a firm is merged, combined, dissolved, or separated, the sponsoring organization shall determine which resultant firm shall be considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

(f) The board shall accept extensions granted by the sponsoring organization to complete a peer review; provided that the board is notified by the firm within twenty days of the date that an extension is granted. The board may also grant a firm an extension of time to comply with the peer review requirement of this part based on a showing of hardship, including reasons of health, military service, or other good cause as determined by the board.

(g) A firm that has been rejected by a sponsoring organization for any reason shall make a request in writing to the board for authorization to enroll in a program of another sponsoring organization.

(h) A firm that chooses to enroll in a program of another sponsoring organization pursuant to subsection (g) may do so; provided that the firm authorizes the previous sponsoring organization to communicate to the succeeding sponsoring organization any outstanding corrective actions related to the firm's most recent peer review. Any outstanding corrective actions shall be cleared and outstanding fees paid prior to the transfer between sponsoring organizations.

(i) An out-of-state firm performing Hawaii attest work shall comply with this part.

(j) If a firm is subject to inspections pursuant to the Sarbanes-Oxley Act of 2002, as amended, and also performs Hawaii attest work not subject to those inspections, the firm shall enroll in a peer review program for review of its non-public company Hawaii attest work in addition to the firm inspection program required by the public company accounting oversight board.

[§466-35] Peer review compliance reporting form. (a) Upon the completion of a peer review, each reviewed firm shall submit a peer review compliance reporting form to the board pursuant to section 466-38. The peer review compliance reporting form shall include the following:

- (1) The name of the firm conducting the peer review;
- (2) The name of the approved sponsoring organization;
- (3) Except for public company accounting oversight board inspections, the name of the team captain or peer reviewer or reviewers, who shall not be affiliated with the firm being reviewed;
- (4) The rating issued to the firm as a result of the review, which shall be clearly indicated in the review report;
- (5) The date of completion of the peer review; and
- (6) A representation that the peer review or the inspection by the public company accounting oversight board firm inspection program includes the firm's Hawaii attest engagements within the scope of the review or the inspection.

(b) A firm shall include, with the peer review compliance reporting form, the contemporaneous Hawaii supplement to the peer review report pursuant to section 466-36, if:

- (1) A peer review report from an approved sponsoring organization does not include the selection of a Hawaii office or Hawaii attest engagement;
- (2) The peer reviewer does not hold permits to practice public accountancy under section 466-7 or is not licensed to practice public accountancy in any other state, except inspectors for the public company accounting oversight board; or
- (3) The final report resulting from any inspection by the public company accounting oversight board firm inspection program does not include the firm's Hawaii offices, if any, and Hawaii attest engagements in the scope of the inspection, and the firm is not required to enroll in another peer review program under section 466-34.

[\$466-36] Hawaii supplement to the peer review report. (a) A firm required to undergo a peer review under this chapter shall engage the services of a practitioner or firm holding a permit issued under section 466-7 to perform the following procedures to supplement the peer review report:

- (1) Obtain from the reviewed firm a list of Hawaii attest engagements included in the scope of the peer review, in accordance with the American Institute of Certified Public Accountants Standards for Performing and Reporting on Peer Reviews;
 - (2) Select one or more engagements from the list of engagements obtained from the reviewed firm;
 - (3) Obtain from the reviewed firm, the reports, financial statements, work papers, and work product resulting from the attest engagements selected;
 - (4) Read and compare the reports, work papers, and work product to an appropriate disclosure checklist to evaluate the firm's compliance with professional standards; and
 - (5) Document all instances of noncompliance with professional standards detected while performing the procedures listed in this section.
- (b) The procedures required by this section shall be performed in accordance with the Statements on Standards for Attestation Engagements adopted by the American Institute of Certified Public Accountants.
- (c) The Hawaii supplement to the peer review report to the firm and to the board shall state, at a minimum, the following:
- (1) Name of firm;
 - (2) Date the Hawaii supplement to the peer review report was completed;
 - (3) Period that was reviewed;
 - (4) Any Hawaii office or offices selected;
 - (5) Number and type of Hawaii engagements reviewed;
 - (6) Any limitations that may have been imposed upon the peer reviewer in complying with subsection (a), including the selection of Hawaii engagements and peer review standards by the peer reviewer; provided that the acceptability of the limitations shall be subject to board approval; and
 - (7) The procedures performed and any instances of noncompliance with professional standards found.
- (d) The practitioner or firm selected to perform the procedures required by this section

shall:

- (1) Hold a permit to practice under section 466-7;
- (2) Not be affiliated with the firm being reviewed; and
- (3) Be recognized as a qualified peer reviewer by a sponsoring organization.

[§466-37] Retention of documents. (a) Each reviewer shall maintain all documentation necessary to establish that each review conforms to the review standards of the relevant review program, including the review working papers, copies of the review report, and any correspondence indicating the firm's concurrence and non-concurrence, along with any proposed remedial actions and any related implementation.

(b) The documents described in subsection (a) shall be retained by the reviewer for a period of time corresponding to the retention period of the sponsoring organization, and upon request of the board, shall be made available to the board; provided that the document shall be retained for at least one hundred twenty days after the date of completion of the review by the sponsoring organization.

[§466-38] Reporting to the board. (a) A firm shall submit to the board:

- (1) A copy of the peer review report and the final letter of acceptance from the sponsoring organization, if the report has a rating of "pass";
 - (2) A copy of the peer review report, the firm's letter of response, the corrective action letter, and the final letter of acceptance if the report has a rating of "pass with deficiency" or "fail"; or
 - (3) A copy of any report or Part I and any other public portion of the report resulting from any inspection by the public company accounting oversight board firm inspection program together with documentation of any significant deficiencies, findings, and the firm's response.
- (b) For peer reviews scheduled after December 31, 2014, any report or document required to be submitted under subsection (a) shall be filed with the board as follows:
- (1) Firms enrolled in the American Institute of Certified Public Accountants and Hawaii Society of Certified Public Accountants peer review programs and administered by the Hawaii Society of Certified Public Accountants, within thirty calendar days of receipt of the notice of completion from the Hawaii Society of Certified Public Accountants, shall complete the peer review compliance reporting form under section 466-35 and submit the form to the board along with the required documents;
 - (2) Firms otherwise enrolled in the American Institute of Certified Public Accountants peer review program, including those whose peer reviews are administered by the National Peer Review Committee, within thirty calendar days of receipt of the notice of completion from the sponsoring organization, shall complete the peer review compliance reporting form under section 466-35 and submit the form to the board along with the required documents;
 - (3) Firms enrolled in the public company accounting oversight board inspection program shall, within thirty calendar days of receipt of the issuance of the Part I report from the public company accounting oversight board, complete the peer

review compliance reporting form required by section 466-35 and submit the form to the board along with the required documents; and

- (4) Firms enrolled in any other peer review program approved by this part shall submit the report generated by that review process and all associated documentation to the board in a form acceptable to the board.
- (c) Any report or document submitted to the board under this section, including the board's peer review compliance reporting form, shall be confidential.

[§466-39] Appeals. (a) A firm shall have thirty calendar days after the filing of the peer review compliance reporting form to appeal a "pass with deficiency" or a "fail" rating that may result in the denial, termination, or nonrenewal of a permit to practice.

(b) A firm may also appeal the findings or conclusions of any peer review process under this part that results in the denial, termination, or nonrenewal of a permit to practice.

(c) The appeal process under this section shall include the postponement of any adverse action during the pendency of the appeal.

[§466-40] Procedures for sponsoring organization. (a) To qualify as a sponsoring organization, a third-party entity shall submit a peer review administration plan to the board for review and approval. The peer review administration plan shall:

- (1) Establish a peer review report committee and any necessary subcommittees and provide professional staff as needed for the operation of the peer review program;
 - (2) Establish a program to communicate to firms participating in the peer review program the latest developments in peer review standards and the most common findings in the peer reviews conducted by the sponsoring organization;
 - (3) Establish procedures for resolving any disagreement that may arise out of the performance of a peer review;
 - (4) Establish procedures to resolve matters that may lead to the dismissal of a firm from the peer review program;
 - (5) Establish procedures to evaluate and document the performance of each peer reviewer, including procedures related to the disqualification of a reviewer who does not meet the American Institute of Certified Public Accountants standards;
 - (6) Require the maintenance of records of peer reviews conducted under the program in accordance with the records retention rules of the American Institute of Certified Public Accountants and this part; and
 - (7) Provide for periodic reports to the board on the results of the peer review program; provided that reports submitted to the board shall not contain information concerning specific firms or peer reviewers.
- (b) A sponsoring organization:
- (1) Shall be subject to review and oversight by the board;
 - (2) Shall not require firms or the firms' owners or employees to become members of the sponsoring organization to participate in a peer review; and
 - (3) Shall charge the same rate for peer review services to members and nonmembers.

(c) The public company accounting oversight board shall be exempt from the requirements of this section.

[§466-41] Oversight of sponsoring organizations. (a) The board shall retain oversight of sponsoring organizations through the peer review oversight committee described in section 466-42.

(b) The board shall periodically publish a list of sponsoring organizations that have been approved by the board.

§466-42 Peer review oversight committee. (a) The board shall establish a peer review oversight committee for the purpose of:

- (1) Monitoring sponsoring organizations to ensure that peer reviews are being conducted and reported in accordance with standards for performing and reporting on peer reviews adopted by the American Institute of Certified Public Accountants Peer Review Board;
- (2) Reviewing the policies and procedures of sponsoring organization applicants as to their conformity with the peer review standards of any applicable peer review organization and this part; and
- (3) Reporting to the board on the conclusions and recommendations reached as a result of performing the functions in paragraphs (1) and (2).

(b) Except to the extent otherwise required under this section and section 466-41(b), information concerning a specific firm or reviewer obtained by the peer review oversight committee during oversight activities shall be confidential and shall not be subject to discovery, pursuant to section 466-32, and reports submitted to the board by the peer review oversight committee shall not contain information concerning specific firms or reviewers. Members of the peer review oversight committee shall be required to execute confidentiality statements for the sponsoring organization that they oversee.

(c) Effective January 1, 2013, the peer review oversight committee shall consist of three individuals who hold permits to practice under section 466-7. No member of the peer review oversight committee shall be a current member of the board, the Hawaii Society of Certified Public Accountants Peer Review or Professional Ethics Committees, or the American Institute of Certified Public Accountants Professional Ethics Executive Committee. The members shall have significant experience with attest engagements and currently be in the practice of public accountancy at the partner or equivalent level. The member's firm shall have received a report with a rating of pass or an unmodified opinion from its last peer review.

(d) The peer review oversight committee shall make an annual recommendation to the board as to the qualifications of an approved sponsoring organization to continue as an approved sponsoring organization on the basis of the results of the following procedures:

- (1) Where the sponsoring organization is:
 - (A) The American Institute of Certified Public Accountants;
 - (B) A state certified public accountant society, including the Hawaii Society of Certified Public Accountants, fully involved in administering the American Institute of Certified Public Accountants peer review program; or

- (C) The public company accounting oversight board, the peer review oversight committee shall review the published reports of the entity or the entity's successor to determine whether there is an acceptable level of oversight; and
- (2) Where the sponsoring organization is other than any organization listed in paragraph (1), the peer review oversight committee shall perform the following functions:
 - (A) At least one member of the peer review oversight committee shall attend at least one meeting of the sponsoring organization's peer review committee; and
 - (B) During these visits, the peer review oversight committee members shall:
 - (i) Meet with the organization's peer review committee during the committee's consideration of peer review documents;
 - (ii) Evaluate the organization's procedures for administering the peer review program;
 - (iii) Examine, on the basis of a random selection, a number of reviews performed by the organization to include, at a minimum, a review of the report on the peer review, the firm's response to the matters discussed, the sponsoring organization's letter of acceptance outlining any additional corrective or monitoring procedures, and the required technical documentation maintained by the sponsoring organization on the selected reviews; and
 - (iv) Expand the examination of peer review documents if significant deficiencies, problems, or inconsistencies are encountered during the analysis of the materials.
- (e) In the evaluation of policies and procedures of sponsoring organization applicants, the peer review oversight committee shall:
 - (1) Examine the policies as drafted by the applicant to determine whether the policies provide reasonable assurance of conforming to the standards for peer reviews;
 - (2) Evaluate the procedures proposed by the applicant to determine whether:
 - (A) Assigned reviewers are appropriately qualified to perform the review for the specific firm;
 - (B) Reviewers are provided with appropriate materials;
 - (C) The applicant has provided for consultation with the reviewers on problems arising during the review and that specified occurrences requiring consultation are outlined;
 - (D) The applicant has provided for the assessment of the results of the review; and
 - (E) The applicant has provided for an independent report acceptance body that considers and accepts the reports of the review and requires corrective actions by firms with significant deficiencies; and
 - (3) Make recommendations to the board as to approval of the applicant as a sponsoring organization.
- (f) Annually, the peer review oversight committee shall provide the board with a report on the continued reliability of sponsoring organizations' peer reviews. The peer review oversight committee report shall provide reasonable assurance that peer reviews are being conducted and reported on consistently and in accordance with the Standards for Performing and Reporting on

Peer Review adopted by the American Institute of Certified Public Accountants. A summary of oversight visits shall be included with the annual report.

(g) The members of the peer review oversight committee shall serve without compensation, but shall be reimbursed for necessary expenses, including travel expenses, that are incurred in the performance of their duties.

(h) No member of the peer review oversight committee shall bear any civil liability for any action taken as a member of the peer review oversight committee in furtherance of the purposes for which the peer review oversight committee was established.

[§466-43] Oversight of peer reviewers for a Hawaii supplemental peer review. (a) A peer reviewer for a Hawaii supplement to the peer review report under section 466-36 shall be a person who:

- (1) Holds a permit to practice public accountancy under section 466-7; and
- (2) Is not affiliated with the firm being reviewed.

(b) The board shall retain oversight of the peer reviewers for a Hawaii supplement to the peer review report by monitoring the peer reviewers to ensure that the peer reviewers are in compliance with subsection (a) and that peer reviews are conducted in accordance with the standards established under section 466-36.

(c) Information concerning any peer reviewer that is obtained during the board's peer review oversight activities shall be confidential as required by section 466-32.

(d) The board shall annually assess the qualifications of all peer reviewers for a Hawaii supplement to the peer review report based on a random selection of each reviewer's published Hawaii supplement to the peer review reports and shall determine whether the published reports comply with subsection (b). The board may suspend a person from being a peer reviewer for a Hawaii supplement to the peer review report for a period not to exceed one year for failure to comply with subsection (b).

(e) A peer reviewer suspended under subsection (d) may appeal the suspension to the board at a public hearing that shall be an action or proceeding subject to discovery under the provisions of section 466-32(c).