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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 744

02/12/2015 Authored by Gunther and Mahoney

The bill was read for the first time and referred to the Committee on Civil Law and Data Practices

1.1 A bill for an act
1.2 relating to state government; modifying standards for accountancy examinations
1.3 and peer reviews; authorizing rulemaking; amending Minnesota Statutes 2014,
1.4 sections 326A.01, subdivisions 2, 12, 13a, 15, 16; 326A.02, subdivisions 3, 5;
1.5 326A.05, subdivisions 1, 3; 326A.08, subdivision 7; 326A.10.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2014, section 326A.01, subdivision 2, is amended to read:

1.8 Subd. 2. **Attest.** "Attest" means ~~to provide~~ providing any of the following ~~financial~~
1.9 ~~statement~~ services:

1.10 (1) an audit or other engagement performed in accordance with the Statements on
1.11 Auditing Standards (SAS);

1.12 (2) a review of a financial statement performed in accordance with the Statements on
1.13 Standards for Accounting and Review Services (SSARS);

1.14 (3) an examination of prospective financial information performed in accordance
1.15 with the Statements on Standards for Attestation Engagements (SSAE); ~~and~~

1.16 (4) ~~any~~ an engagement performed in accordance with ~~auditing and related~~ the
1.17 standards of the Public Company Accounting Oversight Board (PCAOB); ~~and~~

1.18 (5) an examination, review, or agreed-upon procedures engagement performed in
1.19 accordance with SSAE, other than an examination described in clause (3).

1.20 Sec. 2. Minnesota Statutes 2014, section 326A.01, subdivision 12, is amended to read:

1.21 Subd. 12. **Peer review.** "Peer review" means ~~an independent~~ a study, appraisal, or
1.22 review of one or more aspects of the professional work of a licensee or CPA firm that
1.23 issues attest or compilation reports, or the professional work of a person registered under

2.1 section 326A.06, paragraph (b), by persons who are not affiliated with the licensee or
2.2 CPA firm being reviewed.

2.3 Sec. 3. Minnesota Statutes 2014, section 326A.01, subdivision 13a, is amended to read:

2.4 Subd. 13a. **Principal place of business.** "Principal place of business" means the
2.5 office location designated by the licensee for purposes of substantial equivalency and
2.6 reciprocity ~~in this state and in other states.~~

2.7 Sec. 4. Minnesota Statutes 2014, section 326A.01, subdivision 15, is amended to read:

2.8 Subd. 15. **Report.** "Report," when used with reference to ~~financial statements~~ an
2.9 attest or compilation service, means an opinion, report, or other form of language that
2.10 states or implies assurance as to the reliability of ~~any~~ the attested information or compiled
2.11 financial statements and that also includes or is accompanied by a statement or implication
2.12 that the person or firm issuing it has special knowledge or competence in accounting or
2.13 auditing. Such a statement or implication of special knowledge or competence may arise
2.14 from use by the issuer of the report of names or titles indicating that the person or firm is an
2.15 accountant or auditor, or from the language of the report itself. The term "report" includes
2.16 any form of language that disclaims an opinion when the form of language is conventionally
2.17 understood to imply any positive assurance as to the reliability of the attested information
2.18 or compiled financial statements referred to or special competence on the part of the person
2.19 or firm issuing the language. It includes any other form of language that is conventionally
2.20 understood to imply such assurance or such special knowledge or competence.

2.21 Sec. 5. Minnesota Statutes 2014, section 326A.01, subdivision 16, is amended to read:

2.22 Subd. 16. **State.** "State" means any state of the United States, the District of
2.23 Columbia, Puerto Rico, the U.S. Virgin Islands, the Commonwealth of the Northern
2.24 Mariana Islands, and Guam; except that "this state" means the state of Minnesota.

2.25 Sec. 6. Minnesota Statutes 2014, section 326A.02, subdivision 3, is amended to read:

2.26 Subd. 3. **Officers; proceedings.** The board shall elect one of its ~~number~~ members
2.27 as chair, another as vice-chair, and another as secretary and treasurer. The officers shall
2.28 hold their respective offices for a term of one year and until their successors are elected.
2.29 The affirmative vote of a majority of the qualified members of the board, or a majority of
2.30 a quorum of the board at any meeting duly called, is considered the action of the board.
2.31 The board shall meet at such times and places as may be fixed by the board. Meetings
2.32 of the board are subject to chapter 13D. A majority of the board members then in office

3.1 constitutes a quorum at any meeting duly called. The board shall retain or arrange for the
 3.2 retention of all applications and all documents under oath that are filed with the board and
 3.3 also records of its proceedings, and it shall maintain a registry of the names and addresses
 3.4 of all licensees and registrants under this chapter. In any proceeding in court, civil or
 3.5 criminal, arising out of or founded upon any provision of this chapter, copies of records of
 3.6 the proceeding certified as true copies by the board chair or executive director shall be
 3.7 admissible in evidence as tending to prove the contents of the records.

3.8 Sec. 7. Minnesota Statutes 2014, section 326A.02, subdivision 5, is amended to read:

3.9 Subd. 5. **Rules.** The board may adopt rules governing its administration and
 3.10 enforcement of this chapter and the conduct of licensees and persons registered under
 3.11 section 326A.06, paragraph (b), including:

3.12 (1) rules governing the board's meetings and the conduct of its business;

3.13 (2) rules of procedure governing the conduct of investigations and hearings and
 3.14 discipline by the board;

3.15 (3) rules specifying the educational and experience qualifications required for the
 3.16 issuance of certificates and the continuing professional education required for renewal
 3.17 of certificates;

3.18 (4) rules of professional conduct directed to controlling the quality and probity
 3.19 of services by licensees, and dealing among other things with independence, integrity,
 3.20 and objectivity; competence and technical standards; and responsibilities to the public
 3.21 and to clients;

3.22 (5) rules governing the professional standards applicable to licensees including
 3.23 adoption of the standards specified in section 326A.01, subdivision 2, and as developed
 3.24 for general application by recognized national accountancy organizations such as the
 3.25 American Institute of Certified Public Accountants or the Public Company Accounting
 3.26 Oversight Board;

3.27 (6) rules that incorporate by reference the standards for attesting listed in section
 3.28 326A.01, subdivision 2, that are consistent with the standards of general applicability
 3.29 recognized by national accountancy organizations, including the American Institute of
 3.30 Certified Public Accountants and the Public Company Accounting Oversight Board;

3.31 ~~(6)~~ (7) rules governing the manner and circumstances of use of the titles "certified
 3.32 public accountant," "CPA," "registered accounting practitioner," and "RAP";

3.33 ~~(7)~~ (8) rules regarding peer review that may be required to be performed under
 3.34 provisions of this chapter;

3.35 ~~(8)~~ (9) rules on substantial equivalence to implement section 326A.14;

4.1 ~~(9)~~ (10) rules regarding the conduct of the certified public accountant examination;
 4.2 ~~(10)~~ (11) rules regarding the issuance and renewals of certificates, permits, and
 4.3 registrations;

4.4 ~~(11)~~ (12) rules regarding transition provisions to implement this chapter;

4.5 ~~(12)~~ (13) rules specifying the educational and experience qualifications for
 4.6 registration, rules of professional conduct, rules regarding peer review, rules governing
 4.7 standards for providing services, and rules regarding the conduct and content of
 4.8 examination for those persons registered under section 326A.06, paragraph (b);

4.9 ~~(13)~~ (14) rules regarding fees for examinations, certificate issuance and renewal,
 4.10 firm permits, registrations under section 326A.06, paragraph (b), notifications made under
 4.11 section 326A.14, and late processing fees; and

4.12 ~~(14)~~ (15) upon any change to this chapter, if the board determines a change in
 4.13 Minnesota Rules is required, the board may initiate the expedited process under section
 4.14 14.389 up to one year after the effective date of the change to this chapter.

4.15 Sec. 8. Minnesota Statutes 2014, section 326A.05, subdivision 1, is amended to read:

4.16 Subdivision 1. **General.** The board shall grant or renew permits to practice as
 4.17 a CPA firm to entities that make application and demonstrate their qualifications in
 4.18 accordance with this section.

4.19 (a) The following must hold a permit issued under this section:

4.20 (1) any firm with an office in this state performing attest services as defined in
 4.21 section 326A.01, subdivision 2;

4.22 (2) to the extent required by section 326A.10, paragraph (k), any firm with an office
 4.23 in this state performing compilation services as defined in section 326A.01, subdivision 6;

4.24 (3) any firm with an office in this state that uses the title "CPA" or "CPA firm"; or

4.25 (4) any firm that does not have an office in this state but performs attest services
 4.26 as described in section 326A.01, subdivision 2, paragraph (1), (3), or (4), for a client
 4.27 having its headquarters in this state.

4.28 (b) A firm possessing a valid permit from another state which does not have an office
 4.29 in this state may perform services described in section 326A.01, subdivision 2, clause (2)
 4.30 or (5), or subdivision 6, for a client having its headquarters in this state and may use the
 4.31 title "CPA" or "CPA firm" without a permit issued under this section only if:

4.32 (1) it has the qualifications described in subdivision 3, paragraph (b);

4.33 (2) as a condition to the renewal of the firm's permit issued by the other state, that
 4.34 state requires a peer review which contains the requirements equivalent to subdivision 8,
 4.35 paragraphs (a) and (e); and

5.1 (3) it performs the services through an individual who has been granted practice
5.2 privileges under section 326A.14.

5.3 (c) A firm possessing a valid permit from another state that does not have an office
5.4 in this state and which is not subject to the requirements of paragraph (a), clause (4), or
5.5 (b), may perform other professional services while using the title "CPA" or "CPA firm" in
5.6 this state without a permit issued under this section only if the firm:

5.7 (1) has the qualifications described in subdivision 3, paragraph (b);

5.8 (2) performs the services through an individual who has been granted practice
5.9 privileges under section 326A.14; and

5.10 (3) can lawfully perform the services in the state where the individuals with practice
5.11 privileges have their principal place of business.

5.12 Sec. 9. Minnesota Statutes 2014, section 326A.05, subdivision 3, is amended to read:

5.13 Subd. 3. **Qualifications.** (a) An applicant for initial issuance or renewal of a permit
5.14 to practice under this section shall comply with the requirements in this subdivision.

5.15 (b) Notwithstanding chapter 319B or any other provision of law, a simple majority
5.16 of the ownership of the firm, in terms of financial interests and voting rights of all partners,
5.17 officers, shareholders, members, or managers, must belong to holders of certificates who
5.18 are licensed in some state, and the partners, officers, shareholders, members, or managers,
5.19 whose principal place of business is in this state, and who perform professional services in
5.20 this state, must hold valid certificates issued under section 326A.04 or the corresponding
5.21 provision of prior law. Although firms may include nonlicensee owners, the firm and
5.22 its ownership must comply with rules adopted by the board. The firm shall register all
5.23 nonlicensee owners with the state board as set forth by rule. An individual who has been
5.24 granted practice privileges under section 326A.14 and who performs services for which
5.25 a firm permit is required under section 326A.14, subdivision 1, paragraph (d), is not
5.26 required to obtain a certificate from the board under section 326A.04.

5.27 (c) A CPA firm may include nonlicensee owners provided that:

5.28 (1) the firm designates a licensee of this state, or in the case of a firm that must
5.29 have a permit according to section 326A.14, subdivision 1, paragraph (d), a licensee of
5.30 another state who meets the requirements in section 326A.14, subdivision 1, paragraph
5.31 (a) or (b), who is responsible for the proper registration of the firm and identifies that
5.32 individual to the board;

5.33 (2) all nonlicensee owners are persons of good moral character and are active
5.34 individual participants in the CPA firm or affiliated entities; and

5.35 (3) the firm complies with other requirements imposed by the board in rule.

6.1 (d) An individual licensee and any individual granted practice privileges under
6.2 section 326A.14 who is responsible for supervising attest or compilation services and
6.3 signs or authorizes someone to sign the accountant's report ~~on the financial statements~~
6.4 on behalf of the firm, shall meet the competency requirements set out in the professional
6.5 standards for such services.

6.6 (e) An individual licensee and any individual granted practice privileges under section
6.7 326A.14 who signs or authorizes someone to sign the accountants' report ~~on the financial~~
6.8 ~~statements~~ on behalf of the firm shall meet the competency requirement of paragraph (d).

6.9 Sec. 10. Minnesota Statutes 2014, section 326A.08, subdivision 7, is amended to read:

6.10 Subd. 7. **Violation; penalties; costs of proceeding.** (a) The board may impose
6.11 a civil penalty not to exceed ~~\$2,000~~ \$5,000 per violation upon a person or a firm that
6.12 violates an order, statute, or rule that the board has issued or is empowered to enforce.

6.13 (b) The board may, in addition, impose a fee to reimburse the board for all or
6.14 part of the cost of the proceedings, including reasonable investigative costs, resulting
6.15 in disciplinary or corrective action authorized by this section, the imposition of civil
6.16 penalties, or the issuance of a cease and desist order. The fee may be imposed when the
6.17 board shows that the position of the person or firm that violates a statute, rule, or order
6.18 that the board has issued or is empowered to enforce is not substantially justified, unless
6.19 special circumstances make an award unjust, notwithstanding the provisions of Minnesota
6.20 Rules, part 1400.8401. The costs include, but are not limited to, the amount paid by the
6.21 board for services from the office of administrative hearings, attorney and reasonable
6.22 investigative fees, court reporters, witnesses, reproduction of records, board members' per
6.23 diem compensation, board staff time, and expense incurred by board members and staff.

6.24 Sec. 11. Minnesota Statutes 2014, section 326A.10, is amended to read:

6.25 **326A.10 UNLAWFUL ACTS.**

6.26 (a) Only a licensee and individuals who have been granted practice privileges
6.27 under section 326A.14 may issue a report on financial statements of any person, firm,
6.28 organization, or governmental unit that results from providing attest services, or offer to
6.29 render or render any attest service. Only a certified public accountant, an individual who
6.30 has been granted practice privileges under section 326A.14, a CPA firm, or, to the extent
6.31 permitted by board rule, a person registered under section 326A.06, paragraph (b), may
6.32 issue a report on financial statements of any person, firm, organization, or governmental
6.33 unit that results from providing compilation services or offer to render or render any
6.34 compilation service. These restrictions do not prohibit any act of a public official or

7.1 public employee in the performance of that person's duties or prohibit the performance
7.2 by any nonlicensee of other services involving the use of accounting skills, including
7.3 the preparation of tax returns, management advisory services, and the preparation of
7.4 financial statements without the issuance of reports on them. Nonlicensees may prepare
7.5 financial statements and issue nonattest transmittals or information on them which do not
7.6 purport to be in compliance with the Statements on Standards for Accounting and Review
7.7 Services (SSARS). Nonlicensees registered under section 326A.06, paragraph (b), may,
7.8 to the extent permitted by board rule, prepare financial statements and issue nonattest
7.9 transmittals or information on them.

7.10 (b) Licensees and individuals who have been granted practice privileges under
7.11 section 326A.14 performing attest or compilation services must provide those services in
7.12 accordance with professional standards. To the extent permitted by board rule, registered
7.13 accounting practitioners performing compilation services must provide those services in
7.14 accordance with standards specified in board rule.

7.15 (c) A person who does not hold a valid certificate issued under section 326A.04
7.16 or a practice privilege granted under section 326A.14 shall not use or assume the title
7.17 "certified public accountant," the abbreviation "CPA," or any other title, designation,
7.18 words, letters, abbreviation, sign, card, or device tending to indicate that the person is a
7.19 certified public accountant.

7.20 (d) A firm shall not provide attest services or assume or use the title "certified public
7.21 accountants," the abbreviation "CPA's," or any other title, designation, words, letters,
7.22 abbreviation, sign, card, or device tending to indicate that the firm is a CPA firm unless
7.23 (1) the firm has complied with section 326A.05, and (2) ownership of the firm is in
7.24 accordance with this chapter and rules adopted by the board.

7.25 (e) A person or firm that does not hold a valid certificate or permit issued under
7.26 section 326A.04 or 326A.05 or has not otherwise complied with section 326A.04 or
7.27 326A.05 as required in this chapter shall not assume or use the title "certified accountant,"
7.28 "chartered accountant," "enrolled accountant," "licensed accountant," "registered
7.29 accountant," "accredited accountant," "accounting practitioner," "public accountant,"
7.30 "licensed public accountant," or any other title or designation likely to be confused
7.31 with the title "certified public accountant," or use any of the abbreviations "CA," "LA,"
7.32 "RA," "AA," "PA," "AP," "LPA," or similar abbreviation likely to be confused with the
7.33 abbreviation "CPA." The title "enrolled agent" or "EA" may only be used by individuals
7.34 so designated by the Internal Revenue Service.

7.35 (f) Persons registered under section 326A.06, paragraph (b), may use the title
7.36 "registered accounting practitioner" or the abbreviation "RAP." A person who does not

8.1 hold a valid registration under section 326A.06, paragraph (b), shall not assume or use
8.2 such title or abbreviation.

8.3 (g) Except to the extent permitted in paragraph (a), nonlicensees may not use
8.4 language in any statement relating to the financial affairs of a person or entity that is
8.5 conventionally used by licensees in reports on financial statements or on an attest service.
8.6 In this regard, the board shall issue by rule safe harbor language that nonlicensees may
8.7 use in connection with such financial information. A person or firm that does not hold a
8.8 valid certificate or permit, or a registration issued under section 326A.04, 326A.05, or
8.9 326A.06, paragraph (b), or has not otherwise complied with section 326A.04 or 326A.05
8.10 as required in this chapter shall not assume or use any title or designation that includes the
8.11 word "accountant" or "accounting" in connection with any other language, including the
8.12 language of a report, that implies that the person or firm holds such a certificate, permit,
8.13 or registration or has special competence as an accountant. A person or firm that does
8.14 not hold a valid certificate or permit issued under section 326A.04 or 326A.05 or has not
8.15 otherwise complied with section 326A.04 or 326A.05 as required in this chapter shall not
8.16 assume or use any title or designation that includes the word "auditor" in connection with
8.17 any other language, including the language of a report, that implies that the person or firm
8.18 holds such a certificate or permit or has special competence as an auditor. However,
8.19 this paragraph does not prohibit any officer, partner, member, manager, or employee of
8.20 any firm or organization from affixing that person's own signature to any statement in
8.21 reference to the financial affairs of such firm or organization with any wording designating
8.22 the position, title, or office that the person holds, nor prohibit any act of a public official or
8.23 employee in the performance of the person's duties as such.

8.24 (h)(1) No person holding a certificate or registration or firm holding a permit under
8.25 this chapter shall use a professional or firm name or designation that is misleading about
8.26 the legal form of the firm, or about the persons who are partners, officers, members,
8.27 managers, or shareholders of the firm, or about any other matter. However, names of one
8.28 or more former partners, members, managers, or shareholders may be included in the
8.29 name of a firm or its successor.

8.30 (2) A common brand name or network name part, including common initials, used
8.31 by a CPA firm in its name, is not misleading if the firm is a network firm as defined in
8.32 the American Institute of Certified Public Accountants (AICPA) Code of Professional
8.33 Conduct in effect July 1, 2011, and when offering or rendering services that require
8.34 independence under AICPA standards, the firm must comply with the AICPA code's
8.35 applicable standards on independence.

9.1 (i) Paragraphs (a) to (h) do not apply to a person or firm holding a certification,
9.2 designation, degree, or license granted in a foreign country entitling the holder to engage
9.3 in the practice of public accountancy or its equivalent in that country, if:

9.4 (1) the activities of the person or firm in this state are limited to the provision of
9.5 professional services to persons or firms who are residents of, governments of, or business
9.6 entities of the country in which the person holds the entitlement;

9.7 (2) the person or firm performs no attest or compilation services and issues no
9.8 reports with respect to the ~~financial statements~~ information of any other persons, firms, or
9.9 governmental units in this state; and

9.10 (3) the person or firm does not use in this state any title or designation other than
9.11 the one under which the person practices in the foreign country, followed by a translation
9.12 of the title or designation into English, if it is in a different language, and by the name
9.13 of the country.

9.14 (j) No holder of a certificate issued under section 326A.04 may perform attest services
9.15 through any business form that does not hold a valid permit issued under section 326A.05.

9.16 (k) No individual licensee may issue a report in standard form upon a compilation
9.17 of financial information through any form of business that does not hold a valid permit
9.18 issued under section 326A.05, unless the report discloses the name of the business through
9.19 which the individual is issuing the report, and the individual:

9.20 (1) signs the compilation report identifying the individual as a certified public
9.21 accountant;

9.22 (2) meets the competency requirement provided in applicable standards; and

9.23 (3) undergoes no less frequently than once every three years, a peer review
9.24 conducted in a manner specified by the board in rule, and the review includes verification
9.25 that the individual has met the competency requirements set out in professional standards
9.26 for such services.

9.27 (l) No person registered under section 326A.06, paragraph (b), may issue a report
9.28 in standard form upon a compilation of financial information unless the board by rule
9.29 permits the report and the person:

9.30 (1) signs the compilation report identifying the individual as a registered accounting
9.31 practitioner;

9.32 (2) meets the competency requirements in board rule; and

9.33 (3) undergoes no less frequently than once every three years a peer review conducted
9.34 in a manner specified by the board in rule, and the review includes verification that the
9.35 individual has met the competency requirements in board rule.

10.1 (m) Nothing in this section prohibits a practicing attorney or firm of attorneys from
10.2 preparing or presenting records or documents customarily prepared by an attorney or firm
10.3 of attorneys in connection with the attorney's professional work in the practice of law.

10.4 (n) The board shall adopt rules that place limitations on receipt by a licensee or a
10.5 person who holds a registration under section 326A.06, paragraph (b), of:

10.6 (1) contingent fees for professional services performed; and

10.7 (2) commissions or referral fees for recommending or referring to a client any
10.8 product or service.

10.9 (o) Anything in this section to the contrary notwithstanding, it shall not be a violation
10.10 of this section for a firm not holding a valid permit under section 326A.05 and not having
10.11 an office in this state to provide its professional services in this state so long as it complies
10.12 with the applicable requirements of section 326A.05, subdivision 1.