

A Bill for an Act Relating to Public Accountancy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 466, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . PEER REVIEW PROCESS

§466-A 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-B 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-C Standards for peer reviews and sponsoring organizations. (a) Except as otherwise provided by section 466-F, 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-J and 466-K, 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-D 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-E 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-H. 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-F, 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, and is required to have permits to practice under section 466-7, 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-D.

§466-F 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 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 AT section 201 of 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-G 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-H 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 ten 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-E 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 ten days of receipt of the notice of completion from the sponsoring organization, shall complete the peer review compliance reporting form under section 466-E 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 ten 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-E 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-I Appeals. (a) A firm shall have ten 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-J 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-K Oversight of sponsoring organizations. (a) The board shall retain oversight of sponsoring organizations through the peer review oversight committee described in section 466-L.

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

§466-L 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-K(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-B, 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.

§466-M 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-F 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-F.

(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-B.

(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-B(c)."

SECTION 2. Chapter 466, Hawaii Revised Statutes, is amended by designating sections 466-1 through 466-17 as part I and inserting a title before section 466-1 to read as follows:

"PART I. GENERAL PROVISIONS"

SECTION 3. Act 66, Session Laws of Hawaii 2010, is amended as follows:

1. By amending section 3 to read:

"SECTION 3. Section 466-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) An applicant for the initial issuance or renewal of a permit shall have:

(1) A valid license;

ACT 324

- (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) [Undergone any applicable] In the case of a renewal, undergone and provided proof of having undergone the peer review process [approved by the board of accountancy pursuant to section 466-13.] pursuant to part .””
2. By amending section 9 to read:

“SECTION 9. This Act shall take effect upon its approval[; provided that sections 2, 3, 4, and 5 shall take effect one year after the board of public accountancy reports the adoption of rules pursuant to section 7 of this Act].”

3. By repealing section 7.

[“SECTION 7. — The board of public accountancy shall:

- (1) ~~Adopt rules pursuant to section 466-13(d), Hawaii Revised Statutes, in section 5 of this Act; and~~
- (2) ~~Report the adoption of the rules under paragraph (1) to the legislature immediately upon adoption of those rules by means of written notice to the speaker of the house of representatives and the president of the senate.”]~~

SECTION 4. Section 466-13, Hawaii Revised Statutes, is repealed.

SECTION 5. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2012.

(Approved July 10, 2012.)

Note

1. Edited pursuant to HRS §23G-16.5.