# Table of Contents

**Uniform Accountancy Act Conformity** .......................................................... 3
  - Mobility ........................................................................................................... 3
  - Comprehensive Definition of Attest ............................................................. 4
  - CPE Reciprocity .............................................................................................. 5
  - Peer Review ..................................................................................................... 5
  - Firm Ownership and Resident Manager .......................................................... 5

**AICPA Code of Conduct Adoption** ................................................................. 6

**North Carolina State Board of Dental Examiners v. F.T.C.** .............................. 6

**Tax Issues** ....................................................................................................... 7
  - Taxation of Professional Services .................................................................... 7
  - Regulation of Tax Preparers ............................................................................ 7

**Employment Issues** .......................................................................................... 8
  - Ban the Box and Expungement ....................................................................... 8
  - Pay Equity ....................................................................................................... 8

**Regulation of Marijuana** ................................................................................... 9
Throughout 2016, state legislatures across the country deliberated on a variety of issues that affected the CPA profession, including CPA firm mobility, adopting a comprehensive definition of attest, sales taxes on professional services and a variety of employment-related issues. The American Institute of CPAs’ (AICPA) State Regulation and Legislation Team tracked over 500 bills and over 60 regulations this year. The following summary provides an overview of the key issues tracked in 2016. For a more detailed list of state legislation and regulations considered this year, please contact James Cox, Senior Manager of State Legislation, at jacox@aicpa.org, or Julia Morriss, Coordinator of State Regulation and Legislation, at jmorris@aicpa.org.
Uniform Accountancy Act Conformity

Mobility
Under individual mobility, a CPA license operates much like a state driver’s license by allowing CPAs to seamlessly work across state lines without obtaining a reciprocal license. Currently, 49 states, Washington, DC, Puerto Rico and the U.S. Virgin Islands have individual CPA mobility. Guam, Hawaii and the Commonwealth of the Northern Mariana Islands are the remaining jurisdictions without individual mobility. However, this year, Guam introduced legislation to adopt individual CPA mobility.

Due to the enormous success of individual mobility, many states are looking to expand their mobility laws to include CPA firm mobility, which allows CPA firms to offer attest services such as audits and reviews without having to obtain a reciprocal firm license. CPA firm mobility gives the public more choices in services CPA firms provide, allowing consumers to find a CPA firm that best meets their needs.

Sixteen states have adopted firm mobility provisions. In 2016, both Washington Gov. Jay Inslee (D) and Louisiana Gov. John Bel Edwards (D) signed legislation that provides for full CPA firm mobility. The Illinois Senate passed legislation adopting firm mobility, and it is under consideration in the House of Representatives.
Comprehensive Definition of Attest
In May 2014, the AICPA and the National Association of State Boards of Accountancy (NASBA) approved changes to the Uniform Accountancy Act (UAA), the profession’s model state bill, to include a more comprehensive definition of attest. Designed to protect the public, this change closes a loophole that allowed unregulated, non-CPPAs to perform certain attest engagements, such as reports on sustainability and greenhouse gas emissions, using the Statements on Standards for Attestation Engagements.

Thirty-nine jurisdictions have adopted the comprehensive definition of attest. Eight states — Kansas, Michigan, Mississippi, Nebraska, Pennsylvania, Rhode Island, Washington and West Virginia — enacted the new definition in 2016. Legislation was also introduced in the District of Columbia and Guam.

Definition of Attest Map

- States that currently have a comprehensive definition of attest
- States that need conforming changes to otherwise-comprehensive definition of attest
- States with active legislation to adopt a comprehensive definition of attest
- States that do not have a comprehensive definition of attest

Updated: 11/4/16
CPE Reciprocity
CPE reciprocity exempts CPAs who hold multiple state licenses from having to meet the individual CPE requirements of each state, so long as the licensee meets the CPE requirements of his or her home state. Because this exemption encourages uniformity while removing unnecessary burdens that do not play a role in protecting the public interest, the AICPA and NASBA are encouraging state boards of accountancy to adopt this provision of the UAA Model Rules. Illinois adopted the provision this year.

Peer Review
A peer review is a periodic outside review of a CPA firm's accounting and auditing practice aimed at helping the firm maintain and improve the quality of its services. Firms (and individuals) enrolled in programs following AICPA Standards are required to have an independent reviewer conduct a peer review once every three years. With its emphasis on remediating deficiencies found in firms' processes for performing accounting and auditing engagements, peer review is designed to protect the public interest.

Five jurisdictions — Delaware, Hawaii, Indiana, Louisiana and Tennessee — enacted bills related to peer review in 2016. Delaware requires peer reviews for all Delaware CPA firms, thus moving the profession closer to its goal of enacting such requirements nationally. The Hawaii legislation revised various sections of the statute to permit persons licensed to practice public accountancy in other states to perform peer reviews for firms that hold a Hawaii license. It also changed the deadline for filing peer review compliance reporting forms and appealing certain peer review ratings from 10 days to 30 days. Indiana and Tennessee’s bills allow the boards of accountancy to access peer review documents directly. Both bills, as signed into law, still require rulemaking to implement. The legislation in Louisiana clarified the requirement for firms providing attest services to be enrolled in a board-approved peer review program.

Firm Ownership and Resident Manager
The UAA provides for non-CPA ownership of CPA firms as long as CPAs own a simple majority (50 percent plus one) of the firm. These highly skilled individuals are needed to perform related professional services and provide specialized expertise on complex audits. The UAA also allows the resident manager of a CPA firm to be a non-licensee. As audit services become increasingly sophisticated, firms are turning to non-CPAs for expertise in technology, industry, security and general business to enhance their services. It is essential for CPA firms to be able to offer leadership roles and advancement in order to retain high-quality non-CPA professionals.

Fifty-two jurisdictions have the UAA simple majority provision in place. Delaware and New York introduced bills in 2016 to move to a simple majority of CPAs for firm ownership, with Delaware Gov. Jack Markell (D) signing the state’s bill into law. Three jurisdictions — Hawaii, New York and the Commonwealth of the Northern Mariana Islands — are the only jurisdictions that do not allow for non-CPA ownership. Massachusetts introduced a bill in 2016 that allowed the resident manager of a CPA firm to be a non-licensee. While the bill did not move, states can expect similar legislation in 2017.
AICPA Code of Conduct Adoption

The AICPA and NASBA have joined together to promote the uniform adoption of the AICPA Code of Professional Conduct. The Code is a set of principles, rules and interpretations that guides CPAs in the performance of their professional responsibilities. CPA mobility laws allow CPAs to serve their clients across state lines, but without uniform mandatory ethical standards, CPAs can find it hard to navigate inconsistent requirements across multiple states. Uniform ethical standards make it easier for CPAs to comply with regulations, thereby protecting the public and promoting sound business practices.

Twenty-three states have adopted the AICPA Code of Conduct. In 2016, Illinois, Mississippi and Wisconsin adopted the Code.

North Carolina State Board of Dental Examiners v. F.T.C.

In February 2015, the U.S. Supreme Court decision in North Carolina State Board of Dental Examiners v. F.T.C. (NC Dental) significantly limited the conditions under which members of a state regulatory board with “market participants” — such as boards of accountancy — may claim immunity from federal antitrust laws. Given the largely self-regulatory model that many state boards of accountancy follow, this decision could expose board members to increased personal liability risks for lawsuits based on decisions made in their official capacities. Private plaintiffs already are creating challenges for state boards as successful plaintiffs are entitled to collect treble damages and attorneys' fees. Since state board members can be named as individual defendants, the potential of costly and overbearing litigation could result in current and potential appointees becoming less willing to serve on regulatory boards.

The Supreme Court also ruled that state-action immunity for actions that limit competition extends to actions of a state regulatory board “controlled by active market participants” only if the state articulates a clear policy to displace competition and “actively supervises” the board’s actions. The Court declined to define active supervision.

In 2016, 14 states considered legislation in reaction to the NC Dental case and five — Alabama, Connecticut, Georgia, Idaho and West Virginia — enacted legislation. The new laws establish enhanced state supervision of regulatory board activity, ranging from review of all board activity by additional state authorities, changes in the board appointment process and provision of indemnification to board members and staff.

Additionally, in California, Florida, Massachusetts, Nebraska and Oklahoma, governors and attorneys general issued orders providing for increased oversight of state regulatory boards. California’s attorney general defined “active state supervision” as requiring a state official to review the substance of a regulatory decision made by a state licensing board to determine whether it affects competition. This official must be a non-active member of the market being regulated and must be able to approve, modify or disapprove the board’s decision. Massachusetts Gov. Charlie Baker (R) issued an executive order that instructs the Director of Professional Licensure and the Commissioner of Public Health to review any act, rule, regulation or policy proposed by an independent licensing board that has the potential to reduce competition in a particular market, and to disapprove any that have an anti-competitive effect without furthering another important policy goal.

In total, since the Court’s ruling in 2015, almost one-third of states have issued remedies seeking to address the issues the Court raises, a result that will increase in the coming 2017 legislative cycle.
Tax Issues

Taxation of Professional Services
Many states are seeking offsets to lower personal income taxes and new revenue to fill budget gaps. As a result, taxation of professional services continues to be a great threat to the CPA profession. Currently, Hawaii, New Mexico and South Dakota are the only states that broadly levy a sales tax on professional services.

Taxes on professional services disproportionately affect the small businesses that CPAs represent and would present a substantial burden that would limit small business growth. CPA firms that operate across state lines would also face greater compliance burdens due to the variety of state tax structures. Firms often provide services that are received in different locations, creating administrative and technical problems for administering a sales tax.

This year, legislatures in Arizona, California, Georgia, Oklahoma and West Virginia introduced bills that would create new taxes on professional services. Arizona’s bill proposed a tax on personal services, including accounting and personal tax return preparation. California’s bill created a Retail Sales Tax on Services Fund. Georgia’s bill imposed a sales tax on goods and services for final consumption, though it did not apply to services purchased for a business purpose. Oklahoma’s proposed bill enacted a 3.75% tax on computer software services. West Virginia’s bill would have eliminated the exemption for professional services from the consumer use and sales tax.

While none of the bills introduced to date succeeded, the AICPA expects this issue to be a heavy focus for lawmakers in 2017, as the number of tax-related bills filed is generally higher in non-election years.

At the same time, voters in Missouri approved a constitutional amendment that prohibits new sales or use taxes on any service or transaction that was not subject to a similar tax as of Jan. 1, 2015. The vote effectively bans any future tax on professional services in Missouri.

Regulation of Tax Preparers
The regulation of tax preparers at the state level continues to be a concern for the CPA profession. State-based registration programs for tax preparers add an unnecessary layer of cost and regulatory burden for CPAs. CPAs operating under state interstate mobility laws could be required to register in multiple states if state tax preparer programs are passed, undermining CPA mobility. Additionally, in many cases, the bad actors whom these programs are designed to thwart are unlikely to participate in state-based programs, and may continue to harm the public.

Alabama, Connecticut and Illinois considered legislation in 2016 concerning the regulation of tax preparers. Connecticut’s bill would have created a State Board of Tax Practitioners designed to issue tax preparer licenses. The bill failed when the legislature adjourned. Alabama’s bill proposed setting up an oversight board for tax preparers, but the bill did not succeed. Illinois Gov. Bruce Rauner (R) signed legislation this year that requires tax preparers to use the federal Personal Tax Identification Number (PTIN) when preparing state tax returns and allows the state to fine preparers should they not comply. This simpler solution helps track and identify the bad actors that registration is designed to find, without creating an additional unnecessary regulatory burden on CPAs.
Employment Issues

Ban the Box and Expungement
Civil rights and former offender advocates continued their efforts at the state and local levels to pass legislation in 2016 that would prohibit an employer from including a “check box” on an employment application asking potential employees about their criminal background. The goal of these “Ban the Box” initiatives is to give reformed former offenders a chance to demonstrate their qualifications without discrimination for past mistakes. Twenty-four states considered Ban the Box bills this year. Governors in two states — Connecticut and Vermont — signed legislation that prevents employers from asking for a criminal history before extending a conditional offer of employment.

During 2016, states also continued to look at criminal expungement legislation. These legislative proposals allow charges to be dismissed off a criminal record after a certain amount of time. For example, Kentucky Gov. Matt Bevin (R) signed legislation that allowed charges such as fraud, forgery, defrauding secured creditors and theft by extortion to be expunged after a certain number of years. This kind of legislation has a broad appeal among legislators because it is designed to bring nonviolent offenders back into the workforce.

However, both Ban the Box and expungement pose unique challenges for CPAs and CPA firms, where trust, confidentiality and the handling of sensitive materials are cornerstones of the CPA-client relationship. The CPA profession believes all Ban the Box and expungement proposals must include appropriate exemptions for CPAs and CPA firms.

Pay Equity
In 2016, legislatures around the country considered a new wave of pay equity legislation. The bills are intended to provide all workers equal opportunities to earn competitive salaries for comparable work. For example, Massachusetts Gov. Charlie Baker (R) signed legislation to prevent pay discrimination for comparable work based on gender. Under the bill, employees may discuss their salaries with coworkers, and employers are prohibited from asking job applicants for a salary history.

While pay equity is an admirable legislative goal, many of the bills considered in 2016 created uncertain compliance requirements. The legislation often failed to define “comparable work” or other key terms, leaving employers exposed to potential litigation. Even businesses that actively work to maintain pay equity could find themselves unsure how to comply with the new laws.
Regulation of Marijuana

Marijuana legalization for both recreational and medicinal use continues to pose challenges for the CPA profession. While marijuana is illegal at the federal level, state governments and voters are showing a willingness to decriminalize the drug. Following the November elections, it is now legal under state law to purchase marijuana for recreational purposes in eight states: Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon and Washington.

On the medical side, states such as Georgia, Louisiana, Nebraska, Texas and West Virginia all considered medical marijuana bills in 2016, and Pennsylvania Gov. Tom Wolf (D) signed medical marijuana legislation into law. Additionally, in the November elections, voters in Arkansas, Florida and North Dakota approved legalizing medical marijuana, while voters in Montana approved expanding their existing medical marijuana program.

Nationwide, 31 states now have legal marijuana in some capacity.

In March 2016, Arizona’s Board of Accountancy issued guidance for those CPAs who wish to provide services to marijuana-related businesses. Eight state boards of accountancy provide guidance on the subject. The others are Colorado, Connecticut, Florida, Maryland, Nevada, Oregon and Washington.

United States and Marijuana Laws Map

- States and jurisdictions that have passed medical/recreational marijuana laws
- States and jurisdictions that have passed medical marijuana laws
- States and jurisdictions where medical/recreational marijuana use is illegal

Updated: 11/9/16
Source: National Conference of State Legislatures