2004 SUNSET REVIEW

Colorado Department of Regulatory Agencies
Office of Policy, Research and Regulatory Reform

State Board of Accountancy

October 15, 2004

STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES
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Bill Owens
Governor

October 15, 2004

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed its evaluation of the Colorado State Board of Accountancy (Board). I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2005 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

> The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...
>
> The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination….

The report discusses the question of whether there is a need for the regulation provided under Article 25 of Title 12, C.R.S. The report also discusses the effectiveness of the Board and staff in carrying out the intent of the statutes and makes recommendations for statutory and administrative changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Tambor Williams

Tambor Williams
Executive Director

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Who is Regulated? In January 2004 there were:

- 10,765 active licensed CPAs
- 3,503 inactive licensed CPAs
- 1,113 active registered CPA firms

How is it Regulated? The State Board of Accountancy (Board) regulates CPAs and CPA firms. The mission of the Board is: to identify, examine and license qualified practitioners and CPA firms; conduct investigations to ensure practitioners comply with generally accepted standards of practice; and restrict or revoke licenses when standards of practice are violated.

What Does it Cost? The fiscal year 03-04 expenditure to oversee this program was $552,947, and there were 4.5 FTE associated with this program.

In 2003, license costs were:

	New	Renewal
CPA license	$85	$79
CPA firm registration	$150	$120

What Disciplinary Activity is There? Between fiscal years 98-99 and 02-03, the Board's disciplinary proceedings consisted of:

Complaints Filed	520
Revocations	7
Suspensions	4
Probation/Practice Limitation	6
Letters of Admonition	100
Injunction	1
Stipulated Agreements	10
Dismissed	251
Other	87

Where Do I Get the Full Report? The full sunset review can be found on the internet at: http://www.dora.state.co.us/opr/oprpublications.htm

Key Recommendations

Continue the Board until 2010.
CPAs engage in a variety of complex activities, such as tax planning, tax return preparation, preparation of financial statements and many different types of audits. These activities generally require a great deal of research, investigation and analysis and typically result in the production of reports or filings that are complex and which can be difficult to understand. Since many segments of society base important decisions on the work of CPAs, the current system of regulation should be continued until 2010.

Authorize the Board to Issue Temporary Practice Permits to Individuals and Firms.
The accountancy statute permits a CPA who is licensed in another state to practice here without obtaining a Colorado license if the CPA's practice in this state is incidental to the CPA's regular practice outside of Colorado. Such a CPA is subject to Colorado law and the Board is statutorily charged with enforcing the accountancy statute with respect to such a CPA. The Board should be authorized to issue temporary practice permits to such CPAs so that the Board may be informed when such CPAs work in this state, where they are working and for how long they will be working.

Repeal the Requirement that CPAs Obtain 20 Hours of Continuing Education Each Year.
The accountancy statute currently authorizes the Board to require no more than 80 hours of continuing education every two years, but mandates that at least 20 hours be obtained every year. The Board has not specified a minimum number of hours of continuing education CPAs must obtain, meaning they must obtain 20 hours every year. Since the Board has not enforced this requirement, since there does not appear to be any public harm as a result and since there is no reason why CPAs are unable to determine for themselves the number of hours they need to obtain to remain competent, the 20-hour annual requirement should be repealed.

…Key Recommendations Continued

Clarify that, with Respect to Ownership of CPA Firms, a Simple Majority of the Ownership Must be Held by those Licensed as CPAs.
The accountancy statute currently contains two provisions that stipulate that non-CPAs may hold ownership interests in CPA firms so long as a simple majority of the ownership interest is held by licensed CPAs. These provisions should be consolidated into one provision.

Major Contacts Made in Researching the 2004 Sunset Review of the Board

Colorado Division of Registrations
Colorado Society of Certified Public Accountants
Colorado State Auditor's Office
National Association of State Boards of Accountancy
U.S. Securities and Exchange Commission
University of Colorado at Denver

What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether or not they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with the public interest. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the rights of businesses to exist and thrive in a highly competitive market, free from unfair, costly or unnecessary regulation.

Sunset Reviews are Prepared By:
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Background

The Sunset Process

The regulation of the accounting profession in Colorado is subject to sunset review as provided for in section 24-34-104, Colorado Revised Statutes (C.R.S.). More specifically, section 12-2-132, C.R.S., provides for the repeal of the State Board of Accountancy (Board) effective July 1, 2005, unless continued by the General Assembly. During the year prior to this date, it is the duty of the Department of Regulatory Agencies (DORA) to conduct an analysis and evaluation of the Board pursuant to section 24-34-104(8)(a), C.R.S.

The purpose of this review is to determine whether the Board should be continued for the protection of the public and to evaluate the performance of the program and staff of the Division of Registrations. During this review, the Board must demonstrate that there is still a need for the regulation of certified public accountants (CPAs) and CPA firms, and that the regulation is the least restrictive consistent with the public interest. DORA's findings and recommendations are submitted via this report to the legislative committee of reference of the Colorado General Assembly. Statutory criteria used in sunset reviews may be found in Appendix A on page 25.

Methodology

As part of this review, DORA staff attended Board meetings; interviewed agency staff, representatives of professional associations, stakeholders and regulators from other states; examined agency records and disciplinary actions; reviewed Colorado statutes and rules and canvassed the laws of other states.

Profile of the Accounting Profession

The following profile of accountants is in large part based on the U.S. Department of Labor's *Occupational Outlook Handbook, 2004-05 Edition.*

Accountants and auditors prepare, analyze and verify financial documents in order to provide a wide range of information to clients, including budget analysis, financial and investment planning and information technology consulting.

The field of accounting can be broken down into four, broad fields: public, management, government and internal accounting.

Public accountants perform a broad range of accounting, auditing, tax, and consulting activities for corporations, governments, nonprofit organizations and individuals. While some public accountants concentrate on tax matters, others offer advice in areas such as compensation or employee healthcare benefits, the design of accounting and data-processing systems and the selection of controls to safeguard assets. Still others audit clients' financial statements and report to investors and authorities that the statements have been prepared according to accepted norms. Public accountants, many of whom are CPAs, may have their own businesses or work for public accounting firms.

Some public accountants specialize in forensic accounting, which can consist of investigating bankruptcies, contract disputes, securities fraud, embezzlement and money laundering. Forensic accountants typically combine their knowledge of accounting and finance with law and investigative techniques. As a result, many forensic accountants work closely with law enforcement personnel and lawyers during investigations and often appear as expert witnesses during trials.

In response to recent accounting scandals, new Federal legislation restricts the non-auditing services that public accountants can provide to clients. If an accounting firm audits a client's financial statements, that same firm generally cannot advise that client on other matters.

Many public accountants also offer personal financial advice. They not only provide clients with accounting and tax help, but also help them develop personal budgets, manage assets and investments, plan for retirement and recognize and reduce exposure to financial risks.

Many public accountants seek licensure and the "CPA" designation. In 2003, the American Institute of Certified Public Accountants (AICPA) recommended that state licensing bodies require CPA candidates to complete 150 semester hours of college coursework, which represents 30 hours of coursework beyond the usual four-year bachelor's degree. Forty-five states, excluding Colorado, have adopted, and 42 have implemented, this standard, which is frequently referred to as the "150 hour rule."

All states use the four-part Uniform CPA Examination prepared by the AICPA. Most states also require applicants for licensure as a CPA to have some accounting experience.

CPAs are also eligible to obtain private AICPA credentials, such as "Accredited in Business Valuation" (ABV), "Certified Information Technology Professional" (CITP), or "Personal Financial Specialist" (PFS).

Finally, the Accreditation Council for Accountancy and Taxation, a satellite organization of the National Society of Public Accountants, confers three designations: "Accredited Business Accountant" (ABA); "Accredited Tax Advisor" (ATA) and "Accredited Tax Preparer" (ATP). Candidates for the ABA must pass an examination, while candidates for the ATA and ATP must complete the required coursework and pass an examination.

Management accountants record and analyze the financial information of the companies for which they work as they engage in budgeting, performance evaluation, cost management and asset management activities. Usually, management accountants are part of executive teams involved in strategic planning or new-product development. They analyze and interpret the financial information that corporate executives require to make sound business decisions. They also prepare financial reports for non-management groups, including stockholders, creditors, regulatory agencies and tax authorities.

The Institute of Management Accountants (IMA) confers the “Certified Management Accountant” (CMA) designation upon applicants who complete a bachelor’s degree or attain a minimum score on specified graduate school entrance examinations. Applicants, who must have worked at least two years in management accounting, also must pass a four-part examination, agree to meet continuing education requirements and comply with standards of professional conduct. The Institute of Certified Management Accountants, an affiliate of the IMA, administers the CMA program.

Government accountants and auditors work in the public sector, maintaining and examining the records of government agencies and auditing private businesses and individuals whose activities are subject to government regulations or taxation.

The Association of Government Accountants grants the “Certified Government Financial Manager” (CGFM) designation for accountants, auditors, and other government financial personnel at the federal, state, and local levels. Candidates must have a minimum of a bachelor’s degree, 24 hours of study in financial management, two years experience in government, and must pass a series of three examinations. The examinations cover topics in governmental environment; governmental accounting, financial reporting, and budgeting; and financial management and control.

Finally, internal auditors verify the accuracy of their organization’s internal records and check for mismanagement, waste or fraud. Internal auditors also review company operations by evaluating efficiency, effectiveness and compliance with corporate policies and procedures, laws and government regulations. There are many types of highly specialized internal auditors, such as electronic data processing, environmental, engineering, legal, insurance premium, bank and healthcare auditors.

Graduates from accredited colleges and universities who have worked for two years as internal auditors and have passed a four-part examination may earn the “Certified Internal Auditor” (CIA) designation from the Institute of Internal Auditors (IIA). The IIA recently implemented three new specialty designations: “Certification in Control Self-Assessment” (CCSA); “Certified Government Auditing Professional” (CGAP); and “Certified Financial Services Auditor” (CFSA). Requirements are similar to those of the CIA. The Information Systems Audit and Control Association confers the “Certified Information Systems Auditor” (CISA) designation upon candidates who pass an examination and have five years of experience in auditing information systems. Auditing or data processing experience and a college education may be substituted for up to two years of work experience in this program.

History of Regulation

Colorado has regulated accountants since 1907. The original statute provided for state certification of select accountants as “Certified Public Accountants.” Other persons engaged in accounting were still allowed to practice their trade, but were prohibited from holding themselves out as being state certified. The State Board of Accountancy (Board) was created, and its members were required to be “skilled and knowledgeable” and in active practice, but were not required to be state certified.

The accountancy statute was substantially revised in 1937, and from that date a long series of debates developed between licensed CPAs and unlicensed accountants. The 1937 statute allowed all unlicensed accountants then practicing in Colorado to continue to practice as "registered accountants;" however, prospective accountants who wished to be licensed were required to meet the established educational and testing standards. Board membership became restricted to CPAs. Practice as a registered accountant was defined in the 1937 statute, but practice as a CPA continued to be undefined. A controversy arose, lasting many years, in which CPAs claimed that the new statute restricted the practice of accounting to those who were either CPAs or "grandfathered," registered accountants under the law. For their part, unlicensed accountants maintained that the 1937 statute merely continued the provisions of the 1907 statute by restricting the use of the title "CPA" to those actually licensed by the state.

The 1937 statute was rewritten in 1959, and included a new and controversial condition:

> No person shall use, sign or affix his name . . . to any title or designation, the use of which is prohibited under law, or with any wording indicating that he has expert knowledge in accounting or auditing, to any opinion on, or certificate to any accounting or financial statement, unless he holds a permit . . .

Licensed CPAs contended that this provision restricted the "attest" function to CPAs. Unlicensed public accountants, on the other hand, insisted that the language restricted only the signing or affixing of a name on a financial statement, and not the actual "attest" function.

In 1988, a scope of practice question spawned new litigation.[1] At issue was whether the Board had the statutory authority to prohibit non-certified public accountants from performing accounting services known as "reviews."[2] In its decision, the Colorado Court of Appeals held that unlicensed accountants were prohibited from conducting "audits" only if they were acting in the capacity of an "independent auditor." Moreover, the court found that the statutory prohibition involving audit functions did not extend to the review function, which is separate and distinct from the audit function.

In 2000, as a result of the preceding year's sunset review, Board members were limited to two consecutive terms, the Board's authority to set educational requirements by rule was repealed and the ownership of CPA firms was relaxed to require that only a simple majority of a firm's ownership be held by licensed CPAs.

In 2003, House Bill 1197 addressed the use of confidential communications between certified public accountants and clients relating to the "attest" services of CPAs and CPA firms. Passage of the bill created an exception to Colorado's recognized "accountant-client privilege." The bill empowered the Board to subpoena a CPA's working papers and reports, even if the client has not waived privilege. The scope of the subpoena is limited to the working papers of the particular audit or review under investigation.

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[1] See *Cartwright v. State Bd. of Accountancy*, 796 P.2d 51 (Colo. App. 1990).

[2] A review is one of three distinct levels of financial analysis. A review involves an intermediate level of analysis and responsibility, more than that entailed in a compilation, but less than that involved in an audit. A review carries a "negative attestation" that the accountant does not know of any material modification that should be made to bring the financial statement into conformity with generally accepted accounting principles.

Legal Framework

Federal Law

Perhaps the most important accountancy-related federal law in recent years is the Sarbanes-Oxley Act of 2002 (SOX), which addresses auditor independence, among other things. SOX speaks to management accountability, as well as the accuracy of information and its accessibility to investors.

Management accountability is increased by the requirement that chief executive and financial officers verify the accuracy and fairness of company reports. "Knowing and willful" violations are subject to severe penalties. Furthermore, the U.S. Securities and Exchange Commission (SEC) may bar individuals from serving as officers and directors. SOX further mandates that financial statements be reconciled with Generally Accepted Accounting Principles (GAAP). Significant off-balance-sheet transactions must also be disclosed in company reports.

SOX created the Public Company Accounting Oversight Board (PCAOB) to oversee the quality of audit services supplied to public corporations listed on U.S. securities exchanges. This oversight is intended to strengthen the incentives of outside auditors to operate with integrity, even in the face of pressure from managers who might, in some instances, have incentives to inaccurately report their companies' performances.

SOX applies the principle of auditor independence in two basic ways. It increases the sanctions that auditors can expect to face if they engage in misconduct, thereby encouraging them to comply with certain professional standards set by the PCAOB. SOX also recognizes that some forms of compliance rely on the strength of the auditor's incentive to serve investors' interests. It strengthens this incentive by requiring public accounting firms and their clients to eliminate potential conflicts of interest by making certain fundamental and verifiable changes in their business practices.

SOX goes beyond direct oversight of auditing firms. To address the conditions under which external auditors are retained, a committee of independent directors, who have no employment relationship with the firm, must choose the firm's auditor. This provision is designed to limit the influence that managers who prepare financial reports exercise over the choice of their external auditor.

For each of its clients, the certified public accountant (CPA) firm that conducts the audit must periodically assign a new person as the lead audit partner on each client's account. Both of these provisions limit the opportunities of potential collusion between the auditor and the client.

Finally, registered CPA firms are no longer permitted to sell certain services other than "attest" services to their audit customers. This removes the incentive for an auditor to overlook problems in a client's financial reports in the hopes of winning non-audit business from that client. Any exceptions to these basic rules must be disclosed to investors.

SOX directs the PCAOB to establish auditing and related attestation standards, quality control standards and ethics standards to be used by registered CPA firms in the preparation and issuance of audit reports, or as may be necessary or appropriate in the public interest or for the protection of investors. SOX also authorizes PCAOB to establish such rules as may be necessary or appropriate to implement the auditor independence requirements. While SOX directs PCAOB to convene such expert advisory groups as may be necessary to aid in standards-setting, SOX nevertheless affords the PCAOB considerable discretion in determining the procedures by which it will develop and adopt auditing and related professional practice standards.

Section 209 of SOX concerns state regulation:

> In supervising nonregistered public accounting firms and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board [PCAOB] under this Act [SOX] should not be presumed to be applicable for purposes of this section for small and medium sized nonregistered public accounting firms.

Colorado Law

The State Board of Accountancy (Board) is comprised of seven members appointed by the Governor. Five members of the Board are required to be CPAs, a majority of whom must be in active practice. Two members of the Board may be drawn from the public at large, provided they are not CPAs. Members may serve no more than two consecutive terms.

The Board is empowered to, among other things, promulgate rules necessary for the orderly conduct of its affairs and for the administration of the accountancy statute, which can be found at section 12-2-101, *et seq.*, Colorado Revised Statutes (C.R.S.). More specifically, the Board is to “set rules of professional conduct in order to establish and maintain a high standard of integrity in the profession of public accounting.” (§ 12-2-104, C.R.S.)

Additional powers of the Board include administering, and contracting for the administration of, examinations, and determining educational requirements. The Board may grant, deny, suspend, or revoke licenses. In addition, the Board has the authority to issue letters of admonition, and to censure, place on probation, fine or impose other conditions and limitations on any entity under its jurisdiction. Under section 12-2-125, C.R.S., the Board is empowered to conduct hearings with respect to the denial, suspension or revocation of licenses or CPA firm registrations in accordance with the Administrative Procedures Act. The Board may issue subpoenas, compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony and receive exhibits in evidence.

The Board is also empowered to set, collect, and transmit fees to the state treasurer, but the General Assembly annually appropriates funds to the Board.

Any partnership, professional corporation, or limited liability company engaged in the practice of public accounting as CPAs must register once every three years with the Board. A simple majority of the ownership of a CPA firm doing business in Colorado must be held by those holding a CPA license from some state.

The Board must grant a license as a CPA to any person who passes the written examination, completes a course on professional ethics, earns a bachelor's degree from an accredited school and either has worked as a public accountant at a registered CPA firm for at least one year, or has taken 30 semester hours of additional study.

To renew, reactivate or reinstate a license, a CPA must comply with the Board's continuing education requirements. The Board may require no more than 80 hours of continuing education every two years, and at least 20 of those hours must be obtained each year.

The statute prohibits the use of the title or designation "certified public accountant" or the abbreviation "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a CPA unless such person holds an active license as a CPA. These requirements also apply to registered CPA firms.

Only licensed CPAs may perform independent audits or audits that attest or express an opinion as to the financial position, changes in financial position, or financial results of the operation of any person, organization, or corporation, or as to the accuracy or reliability of any financial information contained in any such accounting or financial statement.

The Board has promulgated eight chapters of rules covering: organization and administration; educational requirements; examinations and re-examinations; experience requirements; certificate maintenance; continuing education; rules of professional conduct and declaratory orders.

Arguably, the most important set of rules are those dealing with professional conduct. The code of professional conduct is preceded by an extensive preamble and a section of definitions. Rule 7.2, regarding independence, references the independence standards of the American Institute of Certified Public Accountants (AICPA) and identifies them as being applicable to all licensed CPAs. In addition, depending on the services performed, licensed CPAs and registered CPA firms must also comply with the independence requirements of the SEC and the U.S. General Accounting Office.

The code of professional conduct also requires professional competence and compliance with applicable technical standards. A licensed CPA may not express a professional opinion on financial statements unless he or she is in compliance with generally accepted auditing standards or similar criteria. Similarly, a licensed CPA may not express a professional opinion on financial statements unless they are in conformity with GAAP.

Program Description and Administration

The State Board of Accountancy (Board) is housed in the Division of Registrations (Division) within the Department of Regulatory Agencies (DORA). Pursuant to section 12-2-101, *et seq.*, Colorado Revised Statutes (C.R.S.), the Board regulates the practice and conduct of certified public accountants (CPAs), as well as registered CPA firms. The practice of public accounting is defined by rule to include the issuance of reports on financial statements, management advisory or consulting services, preparation of tax returns and furnishing advice on tax matters.

The Board conducts regular monthly meetings, normally on the last Wednesday of each month from January through October, with a modified schedule for November and December. During these meetings, the Board addresses issues that are relevant to its responsibilities, such as applications for licensure and issues of general importance to the accounting profession. The meeting agenda is generally posted on the Board's web site one week prior to the scheduled meeting and remains online for about three months. The Board conducts its meetings in accordance with the open meetings law. Complaints against licensees are deemed confidential until such time as the Board takes action, hence the Board considers these in closed sessions that are not open to the public. When the minutes of the open agenda are finalized and signed, they are posted on the Board's web site.

The mission of the Board is to identify, examine and license qualified accounting and auditing practitioners; identify and register qualified CPA firms; conduct investigations to ensure that practitioners comply with generally accepted standards of practice and restrict or revoke licenses when generally accepted standards of practice are not met.

More specifically, the Board is responsible for:

- Licensing and regulating individual CPAs;
- Registering and regulating CPA firms;
- Administering an examination;
- Renewing individual CPA licenses every two years and CPA firm registrations every three years;
- Monitoring compliance with continuing education requirements;
- Making rules and regulations for the orderly conduct of its affairs and for the administration of the accountancy statute;
- Making appropriate rules of professional conduct in order to establish and maintain a high standard of integrity in the profession of public accounting;
- Investigating complaints against licensees; and
- Undertaking disciplinary actions and hearings against licensees who may have violated the accountancy statute or Board rules.

Administrative support for the Board's functions is provided by the Division. Table 1 below depicts the basic agency fiscal information for the period under review.

Table 1
Agency Fiscal Information

Fiscal Year	Total Program Expenditure	FTE
98-99	$616,421	5.5
99-00	$484,154	5.5
00-01	$531,551	4.5
01-02	$562,562	5.4
02-03	$570,612	4.4

Following a Division-wide reorganization in fiscal year 03-04, the number of Division staff dedicated to the Board declined to 2.0 full-time equivalent (FTE) employees: Program Director (0.5 FTE); Administrative Assistant II (1.0 FTE) and Administrative Assistant III (0.5 FTE).

Licensing

Although some overlap may exist, there are four steps in obtaining a CPA license in Colorado. In sequence, these steps are: 1) obtaining a bachelor's degree; 2) taking and passing the Uniform CPA Examination; 3) obtaining one year of work experience in accounting and 4) successfully completing a prescribed ethics examination. Excluding the requirement for a bachelor's degree, the licensing process takes approximately 23 months for applicants to complete.

In general, accountancy regulations can be characterized as admission requirements designed to promote the competency of entry-level professionals, and governing the ongoing practice of public accounting. The latter include continuing education and peer review, also known as practice monitoring. The purpose of these requirements is to induce licensees to maintain their competencies and to continue to deliver services of adequate quality to the public. The first step to obtaining a CPA license in Colorado is attaining a four-year degree. Applicants must possess a baccalaureate degree with a concentration in accounting, or its equivalent, from an accredited college or university before they will be eligible to take the CPA examination.

The second step in pursuing licensure as a CPA is taking and passing the examination. The Board contracts with the National Association of State Boards of Accountancy (NASBA), which in turn contracts with the American Institute of Certified Public Accountants (AICPA) and a private vendor, Prometric, for the administration of the Uniform CPA Examination. The Board is a third-party beneficiary of the NASBA-AICPA-Prometric contract. Pursuant to this contract, Prometric also receives and processes examination applications.

The third step in pursuing CPA licensure is obtaining one year of work experience in accounting. A candidate must have one year (2,080 hours) of accounting experience within five years of passing the CPA examination. This experience must consist of 1,800 hours under the direct supervision of a practicing CPA. Another means of gaining the requisite experience is through selective supervision based on a written agreement. Provided the other criteria are satisfied, this alternative to the traditional employment relationship allows for licensure based on the quality and level of supervision, as well as actual work product. Public accounting and internal audit work are the two main types of acceptable experience.

Colorado also has an “education in lieu of experience” provision (§ 12-2-109(1)(c), C.R.S.). A candidate may obtain licensure by substituting 30 additional semester hours of non-duplicative study beyond the bachelor’s degree for the required year of work experience. A master’s or other higher degree may satisfy this requirement. In order to qualify for education in lieu of experience, the candidate must have, in any combination of undergraduate or graduate course work, 45 semester hours in accounting subjects, of which six must be in auditing, and 36 in general business subjects.

The fourth and final step in Colorado’s licensing process is taking and passing an ethics examination. Candidates must take and pass the open-book ethics examination developed by AICPA. Once certified, active status licensees must complete eighty hours of continuing education every two years. All licenses, whether “active” or “inactive,” must be renewed every two years.

The number of individual CPA licensees for the period under review is depicted in Table 2.

Table 2
Number of Licensees

	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03
Active CPAs	8,215	9,143	10,141	9,905	10,798
Inactive CPAs	3,320	3,453	3,640	3,595	3,757
Total	11,535	12,596	13,781	13,500	14,555

The number of new licensees and the primary means of licensure are depicted in Table 3. Under section 12-2-113, C.R.S., the Board may issue licenses by reciprocity if a candidate passes the CPA examination in another state.

Table 3
Licensing Information

Fiscal Year	Number of New Licenses		
	Examination	Reciprocity	Total
98-99	411	174	585
99-00	447	160	607
00-01	544	170	714
01-02	514	158	672
02-03	499	125	624

In addition to licensing individual CPAs, the Board also registers CPA firms. A CPA firm seeking registration in Colorado must submit to NASBA, a copy of the firm's organizing documents, a description of the services provided, a copy of the firm's letterhead and business cards, copies of any advertising, a completed application form and a $150-fee. The application form solicits information regarding the firm's ownership, managers and CPA employees.

As Table 4 illustrates, the number of registered CPA firms has increased during the five-year period indicated.

Table 4
Firm Registration Information

Fiscal Year	New	Renewal	Total Active Registrations
98-99	51	0	892
99-00	82	892	982
00-01	69	0	1,056
01-02	90	0	1,046
02-03	80	1,046	1,127

Since CPA firm registrations are renewable every three fiscal years, there were no renewals in fiscal years 98-99, 00-01 and 01-02.

Examinations

Beginning April 5, 2004, the Uniform CPA Examination has been administered in a computer-based format at Prometric's test centers across the United States. The 14-hour examination covers four subjects: Auditing & Attestation (AUD), Financial Accounting & Reporting (FARE), Regulation (ARE) and Business Environment & Concepts (LPR). Also beginning in 2004, the examination was offered four times per year, rather than only twice per year as had been the case.

Candidates can take each examination section individually, in any order, or all at one time. However, candidates must pass all four sections within an 18-month period to retain earned credit (formerly known as conditioning). AICPA continues to create and grade the Uniform CPA Examination. NASBA maintains the national database through which information about all the candidates who apply for the examination is distributed.

Table 5
Colorado CPA Examination Information

Fiscal Year	Number of Written Examinations Given November Examination	Total Pass Rate (%)	Number of Written Examinations Given May Examination	Total Pass Rate (%)
98-99	863 (269 passed)	31.2	764 (202 passed)	26.7
Breakdown of Pass Rates by Section of Examination	AUD: 41.8 LPR: 47.2 FARE: 35.8 ARE: 44.0		AUD: 42.1 LPR: 33.7 FARE: 33.5 ARE: 44.1	
99-00	948 (273 passed)	28.8	824 (247 passed)	30.0
Breakdown of Pass Rates by Section of Examination	AUD: 40.4 LPR: 43.5 FARE: 35.7 ARE: 36.0		AUD: 41.4 LPR: 38.6 FARE: 35.2 ARE: 39.5	
00-01	904 (232 passed)	25.7	931 (288 passed)	30.9
Breakdown of Pass Rates by Section of Examination	AUD: 37.5 LPR: 37.9 FARE: 32.8 ARE: 35.7		AUD: 41.2 LPR: 46.9 FARE: 36.7 ARE: 38.4	
01-02	1,164 (370 passed)	31.8	952 (307 passed)	32.2
Breakdown of Pass Rates by Section of Examination	AUD: 43.1 LPR: 44.6 FARE: 38.6 ARE: 42.0		AUD: 41.9 LPR: 50.1 FARE: 40.1 ARE: 37.5	
02-03	1,107 (322 passed)	29.1	1,050 (361 passed)	34.4
Breakdown of Pass Rates by Section of Examination	AUD: 39.8 LPR: 47.6 FARE: 38.4 ARE: 42.2		AUD: 41.2 LPR: 41.8 FARE: 38.1 ARE: 42.5	

Source: Board of Accountancy

The "total pass rate" figures represent the percentage of test takers for a particular administration of the examination who passed their fourth and final section of the examination during that test administration and who then became eligible for CPA licensure.

Colorado pass rates are generally higher than the national average, as evidenced by Table 6 below.

Table 6
National CPA Examination Pass Rates

	AUD	LPR	FARE	ARE
November 1998	33.1	36.4	27.1	30.3
May 1999	34.1	28.1	25.0	33.0
November 1999	27.6	32.3	25.7	25.2
May 2000	31.7	33.2	27.1	31.7
November 2000	31.0	31.7	26.4	27.9
May 2001	32.5	32.7	27.1	28.5
November 2001	32.9	35.2	27.9	30.4
May 2002	33.2	33.6	28.4	31.0
November 2002	33.6	35.9	26.9	30.5
May 2003	33.2	33.6	28.4	31.0

Source: Board of Accountancy

Complaints/Disciplinary Actions

Any person who believes that a CPA or CPA firm has violated the accountancy statute or Board rules may file a written complaint with the Board. The Board may also initiate a complaint on its own motion.

Once a complaint of record is on file, the Board sends to the relevant CPA or CPA firm a copy of the complaint and requests a response. Under section 12-2-123.5, C.R.S., licensees are required to respond within 30 days. Both the complaint and the response are then reviewed by the Board at one of its regularly scheduled monthly meetings. If the Board needs more information to determine the facts or merits of a particular case, it will ask one or more parties for additional information. If the established facts do not constitute a violation of law or rule, the complaint is dismissed. Conversely, if the allegations in the complaint appear to be true and they constitute a probable violation of law or rule, the complaint is forwarded to the Division's Office of Investigation Services (OIS). In some complex cases, the Board may retain an expert consultant.

The OIS investigator may contact witnesses, conduct site visits, and review relevant documents. The investigation is concluded with the presentation of a Report of Investigation to the Board. This report does not make any recommendations to the Board regarding outcomes. OIS investigators attempt to process complaints within six months.

Depending on the severity of the infractions, the Board may issue a letter of admonition, or refer the case to the Office of the Attorney General for the filing of charges and, ultimately, a hearing. Hearings are conducted before an Administrative Law Judge of the Division of Administrative Hearings. Settlements are encouraged to avoid the expense and time of a hearing. If no settlement is reached prior to hearing, a hearing date is set. The Board has subpoena authority that may be used to compel the appearance of witnesses and the furnishing of documents. A hearing may result in licensee sanctions, including probation, suspension, revocation, or other appropriate action (see Table 8 below). The Board lacks authority, however, to order a CPA to refund money to clients or pay for other damages.

Table 7
Complaint Information

Nature of Complaints	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY02-03
Practicing/Holding out w/Expired Certificate	76	15	68	6	23
Practicing/Holding out w/Unregistered Firm	27	17	16	9	24
Practicing/Holding out w/o a Certificate	5	1	2	0	0
Withholding Client Records	11	2	6	4	3
Unethical Behavior/Practice	13	12	14	17	8
Substandard Practice	3	10	9	3	2
Substandard Tax Work	6	2	0	3	12
Fraud & Embezzlement	1	0	1	4	8
Substandard Audit	6	1	3	3	2
SEC Suspension	2	0	0	3	0
Felony Conviction	2	0	0	0	1
Fee Dispute - Nonjurisdictional	2	0	0	0	0
Other	28	11	11	0	2
Totals	182	71	130	52	85

The “other” category in Table 7 may include: failure to complete continuing education requirements; practicing with an inactive or revoked license; misrepresentation; negligence; out-of-state disciplinary action; stipulation violation; unlicensed partner or firm activity; incidental practice violations; failure to respond to the Board; substance abuse and misuse of the “CPA” title.

Although some complaints lead to disciplinary actions, it would be misleading to attempt to draw strict correlations between the two sets of data in Tables 7 and 8. The main reasons are that the Board dismisses some complaints, others are initiated as a result of disciplinary information from other states and the SEC, and some complaints lead to disciplinary actions as part of settlements and stipulated agreements. Nonetheless, Table 8 provides a “snapshot” of the level of disciplinary activity by the Board for the period under review.

Table 8
Final Agency Actions

Type of Action	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03
Revocation	2	1	1	2	1
Cease and Desist Order – Unlicensed Individuals	6	0	3	1	1
Cease and Desist Order – Licensed Accountants	3	0	3	0	0
Surrender of License / Retirement	0	0	0	0	0
Suspension with Probation	2	0	1	0	1
Probation (no suspension) / Practice Limitation	1	0	1	0	4
Letter of Admonition	33	19	27	16	8
License Granted with Probation / Practice Limitations	0	0	0	0	0
License Denied after Hearing	0	0	0	0	0
Injunction	0	0	0	0	1
Stipulated Agreement	3	0	2	0	5
Stipulated Agreement – CE and Probation	1	0	0	0	0
Stipulated Agreement – CE and Fines	23	21	3	3	6
Stipulated Agreement – CE and Fines and Peer Review	1	1	0	0	0
Suspension without Probation	0	0	0	0	0
Total Number of Fines Assessed	2	0	23	11	10
Total Dollar Amount of Fines Assessed	$328,800	$17,000	$20,500	$11,000	$10,500
Total Dollar Amount of Fines Paid	$328,675	$17,000	$20,500	$11,000	$10,500
Dismissed	100	36	43	34	38
Other	11	23	21	18	14
Totals	188	101	128	85	89

The high dollar value of the fines imposed in fiscal year 98-99 is attributable to two substantial fines levied against two national CPA firms that year. All fines imposed and collected by the Board are deposited in the state's General Fund.

Analysis and Recommendations

Recommendation 1 – Continue the State Board of Accountancy until 2010.

The State Board of Accountancy (Board) administers the accountancy statute, which can be found at section 12-2-101, *et seq.*, Colorado Revised Statutes (C.R.S.), and regulates certified public accountants (CPAs) and CPA firms. Whether such administration and regulation is necessary to protect the public is the determining factor in whether the Board and the accountancy statute should be continued. The Department of Regulatory Agencies (DORA) concludes that such activities are necessary to protect the public and, thus, the Board and the statute should be continued until 2010.

The first sunset criterion asks whether regulation is necessary to protect the health, safety or welfare of the public. Accountants engage in a variety of complex activities, such as tax planning, tax return preparation, preparation of financial statements and many different types of audits. These activities generally require a great deal of research, investigation and analysis and typically result in the production of reports or filings that are complex and which can be difficult to understand.

Additionally, many segments of society base important decisions on the work of accountants. For example, a company's financial statements may provide the basis for whether a person invests in a particular company. In order to make a well-informed decision, that potential investor must have some assurance that the financial statement was prepared in a competent manner. Licensure helps to provide the required assurance that the accountant who prepared the financial statement received a minimal level of training and passed a state licensing examination, thus rendering that accountant at least minimally competent.

Thus, the current system of regulation should be continued. This includes the current educational requirements. In short, and as a practical matter, Colorado currently requires 120 hours of education as one of the pre-requisites to licensure, whereas a national movement spurred by the American Institute of Certified Public Accountants (AICPA) proposes 150 hours of education. This issue was also addressed during the 1999 sunset review of the Board when the General Assembly, based on DORA's recommendation, repealed a Board rule that required 150 hours of education.

At least two issues merit exploration when considering whether to increase the educational requirements: 1) whether such an increase is necessary to protect the public, and if so, 2) whether such an increase would erect a barrier to entry into the field by new practitioners.

According to the AICPA, the additional education required to attain 150 hours would best be obtained at the graduate level and should include subjects such as communications, presentation and interpersonal relations. However, the AICPA would not require a graduate education and it is entirely unclear as to why the attainment of such skills in an academic setting, as opposed to through work experience, would make safer practitioners. Therefore, this argument of the proponents of the 150-hour requirement fails the sunset test because there is no indication that an increase in education will enhance public protection.

Indeed, the 1999 sunset report concluded that the public would not be harmed by a reduction of 30 hours in the educational requirement. The low number of complaints received and the low number of disciplinary actions taken by the Board confirm this conclusion. No appreciable increase in complaints or disciplinary actions has occurred.

Similarly, DORA's 1999 conclusion that the 150-hour requirement created an unjustified barrier to entry has also proven accurate. Table 3 on page 12 of this report illustrates that, overall, the number of new CPA licensees in Colorado has increased. This is in contrast to the nationwide trend in which the number of new licensees has decreased significantly between 1991 and 2002, as reflected in Table 9.

Table 9
First-Time CPA Exam Candidates

Year	May Exam	November Exam	Total
1991	23,695	30,068	53,763
1992	29,541	34,714	64,255
1993	25,445	28,538	53,983
1994	20,213	25,885	46,098
1995	19,639	23,688	43,327
1996	19,331	23,589	42,920
1997	18,748	26,926	45,674
1998	15,858	22,715	38,573
1999	18,001	29,182	47,183
2000	15,854	21,223	37,077
2001	12,826	19,614	32,440
2002	15,079	19,788	34,867

Source: University of Colorado at Denver

Nevertheless, proponents continue to argue for the restoration of the 150-hour educational requirement. One of the more popular arguments put forth pertains to the desire to attain substantial equivalency in licensing requirements across the nation and the nationwide adoption of the Uniform Accountancy Act (UAA) and rules. Uniformity is generally seen as desirable because it makes obtaining licenses in multiple jurisdictions easier, thus increasing competition.

Proponents of the 150-hour requirement point out that the national trend is to achieve uniformity in state requirements to enhance interstate practice. According to the AICPA, 42 states have implemented the 150-hour requirement.

Regardless, interstate practice is premised on more than just the 150-hour requirement. Rather, it is based primarily on "substantial equivalency" and universal adoption of the UAA and its education, examination and experience requirements.

Section 23 of the UAA provides that a licensed CPA from a jurisdiction that has been deemed by the National Association of State Boards of Accountancy (NASBA) to have licensure requirements that are substantially equivalent to the UAA, should be granted a license in the UAA jurisdiction. However, whether NASBA deems a state to be substantially equivalent depends on factors in addition to whether it has implemented the 150-hour requirement. Among those factors are a state's requirements for pre-licensure work experience and passing all four sections of the Uniform CPA Examination. Currently, Colorado satisfies the examination requirement, but not necessarily the work experience requirement. Therefore, even if Colorado adopted the 150-hour requirement, Colorado licensees would not necessarily have an easier time of obtaining licensure in a UAA jurisdiction.

While the ease with which Colorado-licensed CPAs can attain licensure in other jurisdictions is cause for some concern, it is necessary to recall that the purpose of regulation by the State of Colorado is to enhance public safety without unduly hampering the ability of practitioners to obtain licensure in Colorado. It is unduly burdensome to require all Colorado licensees to obtain 30 additional hours of education, and to incur the costs associated therewith, so that the few of them who seek licensure in other states have an easier time of it. This is particularly important given that, according to a September 2004 *Denver Business Journal* article,[3] Colorado suffers from a shortage of licensed CPAs.

The argument for uniformity also fails to apply to Colorado because Colorado's educational requirement is lower than the uniform level sought. Thus, if a license candidate obtains 150 hours of education, the candidate has also satisfied Colorado's requirement and will be able to obtain licensure in Colorado just as easily as if Colorado required 150 hours.

Proponents of the 150-hour requirement maintain that Colorado's relatively relaxed licensing standards have rendered the state a popular testing location for non-residents who may never practice here and who then use Colorado licensure as a portal to licensure in other states. This argument, too, fails on several grounds.

First, as already discussed, the number of complaints has not appreciably increased since Colorado abandoned the 150-hour requirement, thus indicating that Colorado businesses and consumers are not being harmed by this influx of non-Coloradans.

[3] Locke, T., "Accounting students in high demand," *The Denver Business Journal*, Sept. 17, 2004.

Second, it is of no concern to the State of Colorado whether those it licenses choose to practice in this state. If a licensee satisfies the licensure requirements, a license should be issued. It is up to the individual licensee to decide whether to actively practice in this state.

Finally, it is inconsistent to maintain that on the one hand, Colorado licensees are hindered in seeking licensure in other states because Colorado does not require 150 hours of education, and to argue on the other hand that the lack of this requirement makes Colorado an ideal portal to licensure in other jurisdictions.

Another issue that arose during the course of this sunset review concerned Colorado's "education in lieu of experience" provision, whereby a candidate for licensure may obtain, in addition to other requirements, either one year of pre-licensure work experience or 30 semester hours of education at an accredited college or university.

Proponents of repealing the education option maintain that candidates should be required to obtain a bachelor's degree and one year's worth of experience. This, proponents argue, will provide the public with more well-rounded, more professional CPAs.

However, DORA was unable to establish that CPAs who pursue licensure via the increased educational route pose a greater risk to the public than those who obtain licensure based on education and experience. Absent such a showing, DORA cannot recommend repealing the "education in lieu of experience" provision and, thus, unjustifiably making it more difficult to obtain licensure as a CPA in Colorado.

As was the case in 1999, the accounting industry is rapidly changing. Recent accounting scandals provided an impetus for the federal government and industry to implement a variety of reforms. Some of these reforms will not go into effect until 2005. Consequently, it will be necessary over the next five years to track and evaluate the impacts of these changes. For example, it will take time to assess the impacts of the Sarbanes-Oxley Act of 2002. An accelerated review schedule, therefore, is once again appropriate.

For all of these reasons, the General Assembly should continue the Board and the accountancy statute until 2010.

Recommendation 2 – Repeal the requirement that licensed CPAs obtain at least 20 hours of continuing education each year.

Section 12-2-119(6), C.R.S., directs the Board to promulgate rules concerning continuing education. The Board may require no more than 80 hours of continuing education every two years, but must require at least 20 hours of continuing education each year.

Pursuant to this statutory directive, the Board has promulgated Chapter 6 of its rules. Among other things, Chapter 6 outlines acceptable subject areas and stipulates that the Board may audit the continuing education records of licensed CPAs. Chapter 6 does not, however, establish a specific number of hours of continuing education that licensed CPAs must obtain in order to maintain licensure.

Since the Board has not promulgated rules establishing a minimum number of continuing education hours, it is logical to conclude that the Board deems 20 hours per year to be sufficient to safeguard the public.

Although it is impossible to determine whether or the extent to which licensees have been complying with the 20-hour requirement, the fact that the number of complaints received by the Board since 2002 has not substantially increased, tends to suggest that licensees are either obtaining a sufficient number of continuing education hours to remain competent without enforcement of the requirement or that they are not obtaining at least 20 hours per year, but are still competent. In either case, repeal of the 20-hour minimum requirement is justified.

Finally, and perhaps more importantly, the logic behind establishing an annual minimum is not clear. Licensed CPAs are professionals and as such, they are able to determine how much continuing education they need in order to remain competent, and when they need to obtain it.

Importantly, this recommendation does not advocate for the complete repeal of the continuing education requirements. If this recommendation is adopted, the Board may still establish a minimum number of hours to be obtained every two years, so long as the Board does not require more than 80 hours in any such period.

Since the 20-hour per year minimum requirement for continuing education is not being enforced and since it is not clear that lack of enforcement has resulted in public harm, the General Assembly should repeal the requirement.

Recommendation 3 – Authorize the Board to issue temporary practice permits to individuals and firms that are licensed CPAs in other states to practice in Colorado for a limited period of time.

Section 12-2-121(2), C.R.S., allows individuals holding certification or licensure in another jurisdiction to practice in Colorado temporarily so long as such practice is "incidental" to his or her regular practice outside of Colorado. Any such activities conducted in Colorado must be conducted in accordance with Colorado law. However, the Board currently lacks the statutory authority to require such firms and individuals to even provide it with notice that they are practicing in Colorado. As a result, out-of-state accountants are practicing in Colorado and are subject to Colorado law, but the Board is unaware of their existence.

By virtue of the fact that such individuals and firms are licensed in other states, they very likely satisfy Colorado's pre-requisites for licensure. Thus, the competence of the accountants is not a major concern regarding this issue. These accountants simply do not seek licensure in Colorado because the scope of their work to be done here does not merit the investment of time and money in obtaining a Colorado license.

Nevertheless, such individuals and firms continue to be subject to Colorado law and the Board is statutorily charged with enforcing the accountancy statute. The Board's task is nearly impossible when the Board is not aware of which out-of-state accountants are practicing in this state, where they are or the length of time they practice here.

As a result, this recommendation does not seek to expand or restrict the ability of out-of-state accountants to practice in this state. This recommendation merely advocates that the General Assembly authorize the Board to issue temporary permits to such individuals and firms as a way of monitoring such individuals and firms and providing the Board with information necessary to investigate the activities of such individuals and firms should a complaint be filed.

Finally, this is not a novel concept. At least 19 states require out-of-state accountants practicing in their states for short periods to obtain temporary practice permits.

For all of these reasons, the General Assembly should authorize the Board to issue temporary practice permits to individuals and firms that are licensed in other jurisdictions and who practice in Colorado for short periods of time.

Recommendation 4 – Clarify that, with respect to ownership of public accounting firms, a simple majority of the ownership must be held by those licensed as CPAs in any state.

Section 12-2-117(1)(b), C.R.S., reads:

> (I) Notwithstanding any other provision of law to the contrary, a simple majority of the ownership of a certified public accounting firm doing business as a public accounting firm in Colorado, in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers, shall be licensed certified public accountants in this state in good standing.
>
> (II) Notwithstanding any other provision of law, a simple majority of the ownership of the registrant, in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers, belongs to holders of a certificate who are licensed in some state. Such partners, officers, shareholders, members, or managers whose principal place of business is in Colorado and who perform professional services in Colorado shall hold a valid certificate issued pursuant to section 12-2-108. The registrant and its ownership, licensed or otherwise, shall comply with rules promulgated by the board.

Subparagraph (I) simply requires that CPA firms operating in Colorado have a majority of their ownership interest held by Colorado-licensed CPAs.

Subparagraph (II) allows national CPA firms, which can have thousands of shareholders, partners, etc. spread across the nation, to practice in Colorado without requiring all of those owners to obtain Colorado licensure, unless their principal place of business is in Colorado.

The "notwithstanding any other provision of law" language in both subparagraphs renders them mutually exclusive. One or the other applies, not both. Thus, a national CPA firm may legally operate in Colorado even if non-Colorado-licensed CPAs hold a majority of its ownership.

Thus, taken together, these two provisions accomplish the same goal: that a majority of a CPA firm's ownership interest be held by licensed CPAs.

Because this is confusing and because these two provisions, when taken together, accomplish the same goal, the General Assembly should simplify these two provisions to accomplish the simple goal of ensuring that a majority of a CPA firm's ownership is held by licensed CPAs, regardless of where they may be licensed.

Appendix A – Sunset Statutory Evaluation Criteria

(I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;

(II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;

(III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;

(IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;

(V) Whether the composition of the agency's Board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;

(VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;

(VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;

(VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;

(IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.