

1979 WL 43489 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 27, 1979

***1 RE: Board of Accountancy**

Thomas E. Leath
Director of Agency Evaluation
State Reorganization Commission
620 Bankers Trust Tower
Columbia, South Carolina 29201

Dear Mr. Leath:

This is to acknowledge receipt of and thank you for your letter concerning the Legislative Audit Council's report on the Board of Accountancy. We have reviewed the report with interest and would like to comment on items of the report which deal with legal enforcement of professional standards.

In Paragraph 3, Page 3, and Recommendation 3, pages 17-19, the report discusses the Board's Code of Professional Ethics and recommends that the Code be eliminated or that the Board adopt the AICPA model code. The basis for this recommendation is the argument that the present code contains certain anti-competitive provisions and 'behavioral standards and ethical responsibilities are difficult to enforce and are better left to accounting associations and societies who are concerned with professional courtesy and etiquette' (Paragraph 3, Page 3). This Office is of the opinion that the public's interests would not be served by the complete elimination of the ethics code, since many of the code's provisions prescribe standards in areas directly affecting the public's welfare, such as conflicts of interest, fraud, misrepresentation, competency, confidentiality of client information, etc. While we have not reviewed the AICPA's model code, the retention of some form of ethics code is recommended, while eliminating those provisions which have anti-competitive effects. Moreover, it is the opinion of this Office that the enforcement of ethical standards should remain with the Board of Accountancy. Professional accounting associations and societies have voluntary membership spread among numerous organizations. These organizations might censure or reprimand members but would have no authority to revoke or suspend a license for serious unethical practice. The authority to suspend or revoke a license rests solely with the Board of Accountancy as licensing authority.

Our other comment is with regard to the report's recommendation that 'good moral character' be dropped from the requirements for taking the CPA examination. This requirement, of course, is common to most professions, e.g. lawyers, doctors, engineers, etc. The basis for this requirement are several: the protection of the public from dishonest people; the relationship of the professional and his clients is normally of a confidential and serious nature and, therefore, not only skill but moral character is of great importance; and finally licensure is not a right but a privilege burdened with conditions. Because the practice of accountancy embraces such technical matters as tax laws, trade practices, rate regulations, 'blue sky laws', security regulations, government reports and regulations, etc., it is necessary for the State to protect its citizens from fraud, deception and other forms of dishonest practice. While the requirement that an applicant demonstrate his 'good moral character' may not be a perfect method for insuring that dishonest people are not licensed as professionals, it is nevertheless one of few safeguards available. The words 'good moral character' have acquired more specific legal meaning than may appear, through their general use over the years. The Board of Accountancy might receive more accurate results in this area, if it designated the individuals from whom letters of recommendation must be obtained, e.g. applicant's professors, ministers, members of the accounting profession, etc., rather than leaving this to the choice of the applicant.

Very truly yours,

*2 Richard B. Kale, Jr.
Senior Assistant Attorney General

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