

**DEPARTMENT OF ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
100 BOARD OF ACCOUNTANCY**

Statutory Authority: 24 Delaware Code, Section 105(a)(1) (24 Del.C. §105(a)(1))
24 DE Admin. Code 100

ORDER

AFTER due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on February 16, 2005 at a scheduled meeting of the Delaware Board of Accountancy to receive comments regarding proposed Regulation 15.0. The proposed regulation identifies crimes substantially related to the practice of accountancy as mandated by SB 229 enacted by the 142nd General Assembly. The proposed regulation was published in the *Register of Regulations*, Vol. 8, Issue 7, January 1, 2005.

Background

Under Title 24, Chapter 1, one of the qualifications for a certificate is that the applicant shall submit evidence that the applicant "is of good character." "Good character", for purposes of this section, means that an applicant has not been convicted of a crime that is substantially related to the practice of accountancy" 24 **Del.C.** §107(a)(1). 24 **Del.C.** §117, as amended by SB 229, provides that any individual holding a certificate and any individual or firm holding a permit to practice shall be subject to disciplinary action set forth in § 118 if, after a hearing, the Board finds that the individual or firm "has been found guilty of or has entered a plea of guilty or nolo contendere to a crime that is substantially related to the practice of accountancy." 24 **Del.C.** §117(4). "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to accountancy." 24 **Del.C.** §102(13).

The Board's authority to promulgate rules and regulations implementing or clarifying specific sections of Chapter 53 is set forth in 24 **Del.C.** §105(a)(1). The specific mandate for this rule is set forth in 24 **Del.C.** §105(b). The proposed regulation specifically identifies those crimes which are substantially related to the practice of accountancy.

Summary Of The Evidence And Information Submitted

No written comments were received. No public comment was received at the February 16, 2005 hearing.

Findings Of Fact With Respect To The Evidence And Information Submitted

The Board carefully reviewed and considered the crimes presented as a compilation of crimes extracted from the Delaware Code. The overarching concern of the Board was the safety of the public since licensed certificate and permit holders work closely in a position of trust and responsibility with the members of the public they serve gaining access to the details of their clients' personal and business financial information. Certificate holders and permit holders often deal with individuals who are inexperienced in financial matters and place a great deal of trust in the practitioner. These individuals, including the elderly, may be vulnerable to manipulation and undue influence. In addition practitioners work in a variety of settings, including private offices, where it is not uncommon for certificate holders to meet with clients after hours when no one else is present in order to accommodate the client's schedule.

The "primary objective of the Board of Accountancy, to which all other objectives and purposes are secondary, is to protect the general public (specifically those persons who are the direct recipients of services regulated by this chapter) from unsafe practices, including incompetent auditing, accounting and tax services rendered by certificate and permit holders, and from occupational practices which tend to reduce competition or fix the price of services rendered." 24 **Del.C.** §101.

The Board finds that the crimes identified in the proposed rule are substantially related to fitness or ability to perform 1 or more of the duties and responsibilities of accountancy in that they involve: the use of physical violence or force, or the threat thereof, toward or upon the person of another; sexual abuse or inappropriate sexual conduct; violation of privacy; dishonesty, or false or fraudulent conduct; offenses against public administration including but not limited to bribery and perjury; financial exploitation and tax offenses; mistreatment or abuse of children and the elderly; and offenses involving the illegal possession or the misuse or abuse of narcotics, or other addictive substances and those non-addictive substances with a substantial capacity to impair reason or judgment.

In summary, the Board finds that adopting regulation 15.0 as proposed is in the best interest of the citizens of the State of Delaware and is necessary to protect the health and safety of the general public, particularly the recipients of accountancy services.

Decision And Effective Date

The Board hereby adopts the changes to Regulation 15.0 to be effective 10 days following publication of this order in the *Register of Regulations*.

Text And Citation

The text of the revised rule remains as published in *Register of Regulations*, Vol. 8, Issue 7, January 1, 2005, and as attached hereto as Exhibit A.

SO ORDERED this 16th day of February, 2005.

BOARD OF ACCOUNTANCY

James R. Zdimal, President, CPA Member

John A. McManus, PA Member

Cathel Tanner, PA Member

Norma Rohleder, CPA Member

James Horthy, CPA Member

Sandra Gulledege, CPA Member

Joyce Dyer, Public Member

Diane Marky, Public Member

15.0 Crimes substantially related to the practice of accountancy:

15.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of accountancy in the State of Delaware without regard to the place of conviction:

- 15.1.1 Aggravated menacing. 11 **Del.C.** §602 (b)
- 15.1.2 Reckless endangering in the first degree. 11 **Del.C.** §604
- 15.1.3 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605.
- 15.1.4 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606.
- 15.1.5 Assault in the second degree. 11 **Del.C.** §612
- 15.1.6 Assault in the first degree. 11 **Del.C.** §613.
- 15.1.7 Assault by abuse or neglect. 11 **Del.C.** §615.
- 15.1.8 Gang participation. 11 **Del.C.** §616.
- 15.1.9 Terroristic threatening; felony. 11 **Del.C.** §621(a) and (b).
- 15.1.10 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 **Del.C.** §626.
- 15.1.11 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633
- 15.1.12 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.
- 15.1.13 Murder in the second degree. 11 **Del.C.** §635.
- 15.1.14 Murder in the first degree. 11 **Del.C.** §636.
- 15.1.15 Promoting suicide. 11 **Del.C.** §645.
- 15.1.16 Unlawful sexual contact in the second degree. 11 **Del.C.** §768.
- 15.1.17 Unlawful sexual contact in the first degree. 11 **Del.C.** §769.
- 15.1.18 Rape in the fourth degree. 11 **Del.C.** §770.
- 15.1.19 Rape in the third degree. 11 **Del.C.** §771.
- 15.1.20 Rape in the second degree. 11 **Del.C.** §772.
- 15.1.21 Rape in the first degree. 11 **Del.C.** §773.
- 15.1.22 Sexual extortion. 11 **Del.C.** §776.
- 15.1.23 Continuous sexual abuse of a child. 11 **Del.C.** §778.

- 15.1.24 Dangerous crime against a child. 11 **Del.C.** §779.
- 15.1.25 Unlawful imprisonment in the first degree. 11 **Del.C.** §782.
- 15.1.26 Kidnapping in the second degree. 11 **Del.C.** §783.
- 15.1.27 Kidnapping in the first degree. 11 **Del.C.** §783A.
- 15.1.28 Arson in the second degree. 11 **Del.C.** §802.
- 15.1.29 Arson in the first degree. 11 **Del.C.** §803.
- 15.1.30 Burglary in the third degree. 11 **Del.C.** §824.
- 15.1.31 Burglary in the second degree. 11 **Del.C.** §825.
- 15.1.32 Burglary in the first degree. 11 **Del.C.** §826.
- 15.1.33 Possession of burglar's tools or instruments facilitating theft. 11 **Del.C.** §828.
- 15.1.34 Robbery in the second degree. 11 **Del.C.** §831.
- 15.1.35 Robbery in the first degree. 11 **Del.C.** §832.
- 15.1.36 Carjacking in the second degree. 11 **Del.C.** §835.
- 15.1.37 Carjacking in the first degree. 11 **Del.C.** §836.
- 15.1.38 Shoplifting; felony. 11 **Del.C.** §840.
- 15.1.39 Use of illegitimate retail sales receipt or Universal Product Code Label; felony.
11 **Del.C.** §840A.
- 15.1.40 Theft. 11 **Del.C.** §841.
- 15.1.41 Theft; lost or mislaid property; mistaken delivery. 11 **Del.C.** §842.
- 15.1.42 Theft; false pretense. 11 **Del.C.** §843.
- 15.1.43 Theft; false promise. 11 **Del.C.** §844.
- 15.1.44 Theft of services. 11 **Del.C.** §845.
- 15.1.45 Extortion. 11 **Del.C.** §846.
- 15.1.46 Misapplication of property; felony. 11 **Del.C.** §848.
- 15.1.47 Receiving stolen property. 11 **Del.C.** §851
- 15.1.48 Identity theft. 11 **Del.C.** §854.
- 15.1.49 Forgery. 11 **Del.C.** §861.
- 15.1.50 Possession of forgery devices. 11 **Del.C.** §862.
- 15.1.51 Falsifying business records. 11 **Del.C.** §871.
- 15.1.52 Tampering with public records in the second degree 11 **Del.C.** §873.
- 15.1.53 Tampering with public records in the first degree. 11 **Del.C.** §876.
- 15.1.54 Offering a false instrument for filing. 11 **Del.C.** §877.
- 15.1.55 Issuing a false certificate. 11 **Del.C.** §878.
- 15.1.56 Defrauding secured creditors. 11 **Del.C.** §891.
- 15.1.57 Fraud in insolvency. 11 **Del.C.** §892.
- 15.1.58 Interference with levied-upon property. 11 **Del.C.** §893.
- 15.1.59 Issuing a bad check; felony. 11 **Del.C.** §900.
- 15.1.60 Unlawful use of credit card; felony. 11 **Del.C.** §903.
- 15.1.61 Reencoder and scanning devices. 11 **Del.C.** §903A.
- 15.1.62 Deceptive business practices. 11 **Del.C.** §906.
- 15.1.63 Criminal impersonation. 11 **Del.C.** §907.
- 15.1.64 Criminal impersonation, accident related. 11 **Del.C.** §907A.
- 15.1.65 Criminal impersonation of a police officer. 11 **Del.C.** §907B.
- 15.1.66 Unlawfully concealing a will. 11 **Del.C.** §908.
- 15.1.67 Securing execution of documents by deception. 11 **Del.C.** §909.
- 15.1.68 Debt adjusting. 11 **Del.C.** §910.
- 15.1.69 Fraudulent conveyance of public lands. 11 **Del.C.** §911.
- 15.1.70 Fraudulent receipt of public lands. 11 **Del.C.** §912.
- 15.1.71 Insurance fraud. 11 **Del.C.** §913.
- 15.1.72 Health care fraud. 11 **Del.C.** §913A.
- 15.1.73 Home improvement fraud. 11 **Del.C.** §916.
- 15.1.74 New home construction fraud. 11 **Del.C.** §917.
- 15.1.75 Unauthorized access. 11 **Del.C.** §932.
- 15.1.76 Theft of computer services. 11 **Del.C.** §933.
- 15.1.77 Interruption of computer services. 11 **Del.C.** §934.
- 15.1.78 Misuse of computer system information. 11 **Del.C.** §935.
- 15.1.79 Destruction of computer equipment. 11 **Del.C.** §936.

15.1.80	Unrequested or unauthorized electronic mail or use of network or software to
cause same. 11 Del.C. §937.	
15.1.81	Failure to promptly cease electronic communication upon request. 11 Del.C.
§938.	
15.1.82	Dealing in children. 11 Del.C. §1100.
15.1.83	Sexual exploitation of a child. 11 Del.C. §1108.
15.1.84	Unlawfully dealing in child pornography. 11 Del.C. §1109.
15.1.85	Possession of child pornography. 11 Del.C. §1111.
15.1.86	Sexual offenders; prohibitions from school zones. 11 Del.C. §1112.
15.1.87	Sexual solicitation of a child. 11 Del.C. §1112A.
15.1.88	Criminal non-support and aggravated criminal non-support. 11 Del.C. §1113.
15.1.89	Bribery; felony. 11 Del.C. §1201
15.1.90	Receiving a bribe; felony. 11 Del.C. §1203.
15.1.91	Giving unlawful gratuities. 11 Del.C. §1205.
15.1.92	Receiving unlawful gratuities. 11 Del.C. §1206.
15.1.93	Improper influence. 11 Del.C. §1207.
15.1.94	Official misconduct. 11 Del.C. §1211.
15.1.95	Profiteering. 11 Del.C. §1212.
15.1.96	Perjury in the second degree. 11 Del.C. §1222.
15.1.97	Perjury in the first degree. 11 Del.C. §1223.
15.1.98	Making a false written statement. 11 Del.C. §1233.
15.1.99	Terroristic threatening of public officials or public servants; felony. 11 Del.C.
§1240.	
15.1.100	Hindering prosecution; felony. 11 Del.C. §1244.
15.1.101	Falsely reporting an incident; felony. 11 Del.C. §1245.
15.1.102	Promoting prison contraband; felony. 11 Del.C. §1256.
15.1.103	Bribing a witness. 11 Del.C. §1261.
15.1.104	Bribe receiving by a witness. 11 Del.C. §1262.
15.1.105	Tampering with a witness. 11 Del.C. §1263.
15.1.106	Interfering with child witness. 11 Del.C. §1263A.
15.1.107	Bribing a juror. 11 Del.C. §1264.
15.1.108	Bribe receiving by a juror. 11 Del.C. §1265.
15.1.109	Tampering with a juror. 11 Del.C. §1266.
15.1.110	Misconduct by a juror. 11 Del.C. §1267.
15.1.111	Tampering with physical evidence. 11 Del.C. §1269.
15.1.112	Unlawful grand jury disclosure. 11 Del.C. §1273.
15.1.113	Hate crimes; felony. 11 Del.C. §1304.
15.1.114	Stalking; felony. 11 Del.C. §1312A.
15.1.115	Violation of privacy; felony. 11 Del.C. §1335.
15.1.116	Bombs, incendiary devices, Molotov cocktails and explosive devices.
11 Del.C. §1338.	
15.1.117	Adulteration. 11 Del.C. §1339.
15.1.118	Possessing a destructive weapon. 11 Del.C. §1444.
15.1.119	Unlawfully dealing with a dangerous weapon; felony. 11 Del.C. §1445.
15.1.120	Possession of a deadly weapon during commission of a felony. 11
Del.C. §1447.	
15.1.121	Possession of a firearm during commission of a felony. 11 Del.C.
§1447A.	
15.1.122	Possession and purchase of deadly weapons by persons prohibited. 11
Del.C. §1448.	
15.1.123	Engaging in a firearms transaction on behalf of another. 11 Del.C.
§1455.	
15.1.123	Organized Crime and Racketeering. 11 Del.C. §1504.
15.1.125	Victim or Witness Intimidation 11 Del.C. §3532 & 3533.

(b).	15.1.126	Financial exploitation of residents or patients; felony 16 Del.C. §1136
	15.1.127	Prohibited acts A under the Uniform Controlled Substances Act. 16
	Del.C. §4751(a), (b) and (c).	
	15.1.128	Prohibited acts B under the Uniform Controlled Substances Act. 16
	Del.C. §4752(a) and (b).	
	15.1.129	Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 Del.C. §4753A (a)(1)-(9).
	15.1.130	Prohibited acts under the Uniform Controlled Substances Act. 16
	Del.C. §4756(a)(1)-(5) and (b).	
	15.1.131	Distribution to persons under 21 years of age. 16 Del.C. §4761.
	15.1.132	Distribution, delivery, or possession of controlled substance within 1,000 feet of school property. 16 Del.C. §4767
	15.1.133	Drug paraphernalia; felony. 16 Del.C. §4771 (b) and (c) [manufacture and sale, delivery to a minor].
	15.1.134	Attempt to evade or defeat tax. 30 Del.C. §571.
	15.1.135	Failure to collect or pay over tax. 30 Del.C. §572.
	15.1.136	Failure to file return, supply information or pay tax. 30 Del.C. §573.
	15.1.137	Fraud and false statements. 30 Del.C. §574.
	15.1.138	Misdemeanors [tax related]. 30 Del.C. §576.
	15.1.139	Obtaining benefit under false representation; felony. 31 Del.C. §1003.
	15.1.140	Reports, statements and documents; felony. 31 Del.C. §1004.
	15.1.141	Kickback schemes and solicitations. 31 Del.C. §1005.
	15.1.142	Conversion of payment. 31 Del.C. §1006.
	15.1.143	Violations of the Securities Act. 6 Del. C. §7322.
	15.1.144	Attempt to Intimidate. 11 Del.C. §3534.
	15.1.145	Alteration, Theft or Destruction of Will. 12 Del.C. §210.
	15.1.146	Financial exploitation of infirm adult; felony. 31 Del.C. §3913.
	15.2	Crimes substantially related to the practice of accountancy shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

*Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Accountancy is available at:

<http://www.professionallicensing.state.de.us/boards/accountancy/index.shtml>
8 DE Reg. 1269 (3/1/05)