

STATE OF NEBRASKA

BOARD OF PUBLIC ACCOUNTANCY

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Dave Heineman
Governor

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To Nebraska Registered CPA Firms:

Please find attached the **Guidelines for Firm Names and Advertising** (Firm Guidelines) recently approved by the Nebraska Board of Public Accountancy (Board). The goal of the Board is to provide Nebraska registered CPA firms with guidance concerning the Board's interpretation of new rules approved in Title 288, Chapter 5 007.03 Form of Practice and Name, for the naming of Nebraska CPA firms. Additionally, based on recent inquiries of the Board and observed practices to advertise professional services by firms, the Board included guidance for firm advertising by interpreting Board rules within Chapter 5 006 Advertising.

The Firm Guidelines will be utilized by the Board in the interpretation of its rules in these areas and considered Board policy. Any practitioner or member of the public can petition the Board to reconsider the interpretations within the Firm Guidelines. This can be accomplished informally by contacting the Board office, writing a letter to the Board, or appearing before the Board at its regularly scheduled Board meetings. Formal requests can be accomplished by pursuing a Declaratory Order as outlined in Board rules Title 288, Chapter 12. The Board will update the Firm Guidelines on regular basis as it makes additional decisions concerning firm names and advertising.

The most current Firm Guidelines, the Public Accountancy Act, and Board rules within Title 288 can be obtained at www.nbpa.ne.gov.

Please review the Firm Guidelines and if you have any questions, comments, or concerns, do not hesitate to contact the Board office at (402) 471-3595, or in Nebraska at 1-800-564-6111, or email nbpa01@nol.org.

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Guidelines for Firm Names and Advertising

Pursuant to Title 288 Nebraska Revised Rules and Regulations, the Board has adopted this non-binding set of guidelines regarding the below named Rules on January 6, 2006. The Guidelines are subject to change.

In determining the acceptability of a name, the Board is obligated to protect the public, PAA 1-105.01. Licensees should be aware that they must receive the Board's approval before using an assumed name. These Guidelines are an interpretation of the Board's rules to prevent misleading and deceptive firm names.

Initial firm applications will be subject to review on a case by case basis. The Board staff is empowered to screen proposed names and recommend approval or denial. Applications will be presented to the Licensing Committee along with a staff recommendation. The Licensing Committee will review the applications and make recommendations to the full Board. The Board, in public session, will consider firm names and vote to approve, deny, or request additional information. Applicants who disagree with the Board's determination may request a hearing pursuant to the Administrative Procedures Act.

Rules Chapter 5 007.03 and Chapter 11 002:

Firm Names:

- 1. Firm names cannot contain words, abbreviations or language that are misleading to the public or may cause confusion as to the legal structure or ownership of the firm. The Supreme Court has upheld licensing restrictions on trade names. The Court reasoned that to some extent such names can be inherently deceptive. The burden of establishing that a firm name is not deceptive shall be upon the applicant.**
- 2. A word, abbreviation, or other language is considered misleading if it:
 - a.) is a trade name or assumed name that does not comply with other subsections of this guideline.**
 - b.) states or implies the quality of services offered, pricing differentiations, expectations of outcomes or favorable results, or states or implies a****

special expertise or a geographic area of service that cannot be substantiated on a long term basis. *Terms such as “solutions” are unable to be substantiated. (Licensing Committee Minutes 12-1-05.)*

- c.) includes the name of a non owner of the firm.
- d.) includes the name of a non CPA.
- e.) states or implies educational, professional, or other licensing attainment or recognition for the firm or the owners not supported in fact. *If the firm name includes a credential, evidence must be submitted with the firm renewal application. (Licensing Committee Minutes 12-13-2005.)*
- f.) implies that the firm has more than one licensee unless there are at least two licensees practicing in the firm.
- g.) states or implies a limitation on the type of service offered by the firm, if the firm does not limit the practice to the type of service indicated in the firm name.

3. Additional Requirements Based on Legal Form of Ownership.

- a.) The names of the legal form of business structure for the firm must conform to the Nebraska statutes authorizing the entity.
- b.) The legal form of business structure for the firm must be a type of legal entity, the formation of which is authorized under Nebraska law.

Rules Chapter 5 006:

Advertising:

1. A licensed CPA firm may advertise all of the services that the licensed CPA's provide.

2. A wholly owned subsidiary of a CPA firm or an affiliate under common ownership with a CPA firm, which subsidiary or affiliate is not a permit holder and which has any of the same contact information, i.e. phone number, door signage, mailing or street address, as the CPA firm is misleading to the public. If the subsidiary or affiliate does not become licensed as a CPA firm, the CPA firm shall cause such subsidiary or affiliate to use disclosure forms. The disclosure form will disclose to the client of such entities that such subsidiary or affiliate is not a CPA firm under Nebraska law, and disclose to such clients how they can know when they are receiving services by a non-CPA related entity rather than the CPA firm. The disclosure form shall be in a format approved by the Board of Public Accountancy. The CPA firm shall obtain and maintain for a reasonable time evidence of such compliance.

3. An entity that has one or more CPAs holding out to the public as a permit holder, as defined in 3.001.09 of the Regulations, must be licensed as a CPA firm to allow the CPAs to hold out in such firm.