

MAINE STATE LEGISLATURE

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Administration Boards: Public Members
Public Members Administration Boards
Board of Accountancy: Public Members

32 M.R.S.A. 3971
JOSEPH E. BRENNAN
ATTORNEY GENERAL

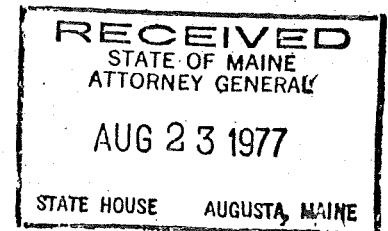


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23 August 1977

Lawrence E. Parker, Jr., CPA
Secretary, Maine Board of Accountancy
84 Harlow Street
Bangor, Maine 04401



Dear Mr. Parker:

This is in reply to your August 10, 1977, letter in which you ask for an opinion of this office concerning the role of the public representative member of the Board of Accountancy. By enactment of Chapter 547 of the Public Laws of 1975, the Board membership was increased from six to seven. The additional member is required to be a "representative of the public." 32 M.R.S.A. §3971. You have noted that three members of the Board are required to be registered as Certified Public Accountants while the remaining three members are required to be registered as Public Accountants (noncertified). Section 3980 provides, in part, that "(t)he certified members of the board shall have the full and sole responsibility for the determination of qualifications of applicants for the certificate of certified public accountant." Section 3986 provides, in part, "(t)he noncertified members of the board shall have the full and sole responsibility for the determination of qualifications of applicants for the certificate of public accountant."

We note initially that 32 M.R.S.A. Chapter 58 places three principal responsibilities upon the Board of Accountancy. The first, and the one to which much of the Board's attention is directed, is to decide education, experience and examination requirements for certification as either a Certified Public Accountant or a Public Accountant, and to decide whether individual applicants will be so certified. ^{1/}

^{1/} Once a certificate is issued, § 3990 requires the Board issue the certificate holder a permit to practice public accountancy.

The second is to review charges of misconduct made against permit holders and to determine whether the permit should be revoked or suspended or whether the holder should be censured. The third principal duty of the Board is to seek injunctions against all persons engaging, in its judgment, in acts prohibited by § 3994.

A review of the language and the legislative history of c. 575, P.L. 1975, including the legislative debates in the House and Senate, ^{2/} reveals the clear intention of the Legislature that, notwithstanding the lack of professional expertise, the representatives of the public on each of the professional and occupational licensing boards have equal standing with all other members of the various boards. See the May 26, 1977, opinion of this office contained within a letter from Assistant Attorney General David Cluchey to the Board of Dental Examiners. This intent must be given effect and prevail over inconsistent legislation. Finks v. Maine State Highway Commission, 328 A. 2d 791 (Me. 1974). With respect to the above discussed first principal duty of the Board, the public representative should join the three Certified Public Accountant members as they determine minimum qualifications for CPAs and as they review applicants for certification as a Certified Public Accountant; this member should likewise join the three Public Accountant members as they determine minimum qualifications for certification as a Public Accountant and review applications for certification as a Public Accountant. In discharging the remaining principal functions of the Board, the public representative is no different from other members of the Board.

Whenever the Board feels the need for further legal assistance, please call upon this office.

William J. Kelleher
Assistant Attorney General

WJK/vv

^{2/} See Legislative Record--House, June 24, 1975, pp. B 2208-2209; Senate, June 24, 1975, p. B 2274.