



**STATE OF NEBRASKA
BOARD OF PUBLIC ACCOUNTANCY**

December 2017

Notice: Guidance Document

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirement or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

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Guidelines for Firm Names and Advertising

Pursuant to Title 288 Nebraska Revise 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.

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- 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 12-1-2005.*) Key Advisors P.C. refers to the name of the original CPA - Alexander Key. (*Licensing Committee Minutes 07-6-2006.*)
- c.) 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 initial/renewal application. (*Licensing Committee Minutes 12-13-2005.*)
- d.) implies that the firm has more than one licensee unless there are at least two licensees practicing in the firm.
- e.) 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.
- f.) A “network firm* name” or a firm name that includes the name of a CPA membership association will NOT be considered misleading if:
 - 1. A CPA membership association meets the other criteria of these Guidelines, is not misleading, and is included in the firm name;
 - 2. The membership association does NOT provide any services to the public but only to the membership;
 - 3. The affiliation is disclosed on letterhead, business cards, engagement documents, and any other public displays. The Board may require additional disclosure(s) to further inform the public when deemed appropriate.
 - 4. The name does not include an actual non-CPA person who is an owner or associated with the firm. (*Board Meeting Minutes July 2007.*)

*Network Firms should consult the AICPA Code of Professional Conduct, Section 100 Independence, Integrity, and Objectivity, specifically 101-17. (*Board meeting minutes March 2011.*)

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. Approve the name ____ Consulting as a sole proprietor firm name. Previously, only the name of the CPA has been allowed for sole proprietor firm name. (*Licensing Committee Minutes 2-2006.*)
- 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.

4. An abbreviated form of the firms name may be used for advertising and marketing purposes, such as on logo shirts or specialty gift items. However, when using the abbreviated form of the firm name for business purposes, such as on letter head, the firm must have the full registered name visible to the public somewhere on the business material. (*Board Minutes 11-13-2008*)

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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.