

2021

NEW YORK STATE

PEER REVIEW OVERSIGHT COMMITTEE

ANNUAL REPORT

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I. Message from the Committee

The timing of this year's report covers the time period January 1, 2021 to December 31, 2021. In 2021 the Mandatory Peer Review Program continued to be significantly impacted by the COVID-19 pandemic. Extensions and delays continued to slow the pace of peer review completions as firms and their peer reviewers provided services remotely. The number of firms monitored continued at a high level. The Pennsylvania Institute of CPA's (PICPA), the administering entity (AE) that administers the peer reviews of the majority of New York firms, also continued remote operations.

Chapter 3 of the AICPA Peer Review Standards continued to impact the PROC's ability to assemble information to monitor firms. As reported in the past, the AE has provided limited information which has made it more difficult to carry out our function. However, the staff of the PROC have continued to find new and different ways to obtain information to continue monitoring firms.

During November 2021, the PROC's recommended changes to the Commissioner's Regulations and the Board of Regents Rules that were submitted to the Department by the Board for Public Accountancy in the fall of 2016 were permanently adopted by the Board of Regents. The changes will provide the PROC with additional tools to improve firm compliance with the Mandatory Peer Review Program.

To further our monitoring of AEs, the PROC expanded its request for the Plan of Administration (POA) from several other AEs that administer the peer reviews of New York firms. A POA was obtained from the New England Peer Review (NEPR) and was requested from New Jersey Peer Review (NJPR). We were unable to obtain a POA from NJPR and were referred to the NJ PROC by the AICPA. Our contact with the NJ PROC provided minimal information. In 2021, the PROC reviewed the AICPA oversight reports for the three AEs as part of our oversight.

As reported previously, the Peer Review Integrated Management Application (PRIMA) launched in May 2017 to replace the previous application to schedule and administer reviews for firms, reviewers, and administering entities. Data and utilization issues continue, and as a result, posted information regarding the reviews processed by the various AEs or the National Peer Review Committee is not timely and, in some cases, inaccurate. The PROC staff continue to submit "tickets" to the AICPA and PICPA to correct information on PRIMA.

During 2021, despite the continued issues related to COVID-19 pandemic, the PROC continued to monitor the administering entity (PICPA), other AEs, and firms to further improve the quality of assurance services in New York State.

II. Background

In 2009, the NYS Legislature passed significant changes to laws that regulate Public Accounting in New York. The legislature required the implementation of the Mandatory Quality Review Program (MQRP). The program became effective for firms registering on or after January 1, 2012. Firms in the MQRP are required to undergo a peer review once every three years as a condition of their firm registration renewal. The purpose of the MQRP is to promote quality in the attest services provided by CPAs. The 2009 law required firms with three or more CPAs, providing attest services, to participate in the MQRP.

In the fall of 2017, the NYS Legislature revised the MQRP law. The new legislation repealed the small firm exemption and, therefore, all firms that provide attest services are required to participate in the peer review program. The changes to the law also included a name change of the program from the Mandatory Quality Review Program to “Mandatory Peer Review Program” (MPRP) and the committee from the Quality Review Oversight Committee to the Peer Review Oversight Committee (PROC).

III. PROC Regulatory Authority and Responsibilities

The PROC derives its regulatory authority from Section 70.10 of the Regulations of the Commissioner (Regulations). In November 2021 the Regulations were permanently amended by the Board of Regents. The purpose of the PROC includes approving and monitoring the Sponsoring Organization, informing, and reporting matters concerning peer review to the Department, assessing, and reporting on the effectiveness of the program, and reviewing individual peer review reports for compliance. Following the amendments to the Regulations, the PROC has the responsibility to:

- receive and approve administration plans from entities applying to be sponsoring organizations;
- monitor sponsoring organizations to provide reasonable assurance that the sponsoring organization is conducting the peer review program in accordance with the peer review standards;
- inform the Department of any issues and/or problems relating to the peer review program which may require the Department's intervention;
- annually report to the Department as to whether each sponsoring organization meets the standards necessary to continue as an approved sponsoring organization;
- annually assess the effectiveness of the peer review program;
- annually report to the Department on any recommended modifications to the peer review program;

- review each peer review report submitted by a firm, as part of its registration or renewal of its registration, to determine whether the firm is complying with applicable professional standards.
- where applicable, the PROC may refer firms that are not in compliance with applicable standards to the Office of Professional Discipline pursuant to Education Law section 6510; and
- ensure that any documents received from a firm or reviewer remain confidential and not constitute a public record, unless such document is admitted into evidence in a hearing held by the Department.

Additionally, a new subdivision (j) of the Board of Regents Rules Part 29, Unprofessional Conduct, Section 29.10, Special Provisions for the Profession for Public Accountancy (Rules) was adopted as it relates to the Mandatory Peer Review Program.

The Rules define unprofessional conduct as follows:

- failure to cooperate with the peer review process;
- making a false, fraudulent, misleading or deceptive statement, as part of, or in support of, a firm's peer review reporting;
- a firm's termination or expulsion from the peer review program;
- failure of a firm and its licensees to follow the peer review process and complete any remedial actions required;
- failure of a firm to provide access to its peer review information, as required by subdivision (j) of section 70.10 of the Regulations of the Commissioner.

IV. PROC Recognized Peer Review Program Providers

The American Institute of Certified Public Accountants (AICPA) is currently the only Peer Review Program Provider (sponsoring organization) that is acceptable to the PROC. The PROC accepts all AICPA approved organizations (administering entities) that are authorized to administer the AICPA Peer Review Program. The AICPA's Peer Review Board (PRB) is responsible for maintaining, furthering, and governing the activities of the AICPA's Peer Review Program, including the issuance of peer review standards, and peer review guidance. The Peer Review Program provides for a triennial review of a firm's accounting and auditing practice. The review is performed by a peer reviewer who is unaffiliated with the firm being reviewed. The goal of the program is to monitor and enhance quality, and conformity with professional standards.

There are two types of peer reviews. System reviews are designed for firms that perform audits or other attest engagements. Engagement reviews are for firms that do not perform audits but perform other engagements such as compilations and/or reviews. Firms can receive a rating of pass, pass with deficiency, or fail. Firms that receive ratings of pass with deficiency or fail must perform corrective actions.

Entities that are currently acceptable to administer the peer review program in New York State are:

- Pennsylvania Institute of CPAs (PICPA) – As of March 15, 2018, PICPA administers the AICPA Peer Review Program for the majority of New York firms. Prior to this date, the New York State Society of CPAs (NYSSCPA) administered the peer review program for most NY firms. As the administering entity, PICPA is responsible for ensuring that peer reviews are performed in accordance with the AICPA's Standards. The PICPA Peer Review Committee (PRC) monitors the administration, acceptance, and completion of peer reviews.
- National Peer Review Committee (NPRC) -The AICPA also administers a peer review program through the National Peer Review Committee for firms required to be registered with and/or inspected by the Public Company Accounting Oversight Board (PCAOB) or perform audits of non-Securities and Exchange Commission (SEC) issuers pursuant to the standards of the PCAOB.
- Other State Societies and Organizations - New York registered accountancy firms are allowed to have their peer review administered by an AICPA approved administering entity in another state. The AICPA maintains the listing of the administering entities assigned to each state.

V. Committee Members and Staff

The PROC consists of six members who are appointed by the NYS Board of Regents for five-year terms and may serve up to two terms. At least five members must be licensed CPAs and the sixth member may be a public member or a licensed CPA. Additionally, PROC members cannot be members of the State Board for Public Accountancy or one of its committees.

Licensed members must be licensed certified public accountants in New York State and hold current registrations with the Department. If a public member is appointed to the PROC, he or she must have received or used the services provided by CPAs.

<u>Member Name:</u>	<u>Member Term:</u>
David Iles, CPA	Oct 1, 2020 – Sep 30, 2025 (Second term)
Mary MacKrell, CPA Vice Chair	Mar 1, 2018 – Feb 28, 2023 (Second term)
Mitchell Mertz, CPA	Jun 1, 2021 – May 31, 2026 (First term)
David Pitcher, CPA	Dec 1, 2019 – Nov 30, 2024 (First term)
Grace Singer, CPA	Feb 1, 2019 – Jan 31, 2024 (First term)
Frank S. Venezia, CPA Chair	Apr 1, 2020 – Mar 31, 2025 (Second term*)

*Frank Venezia served an initial 3-year term at the inception of the program. This is his second, 5-year term.

Staff of the PROC – The PROC has three staff members, the Executive Secretary and Auditor 1 and 2 who support its efforts in effectively carrying out its duties and responsibilities. The Executive Secretary, Jennifer Winters, is the lead staff liaison for the members. The Auditor 2 position was filled with Thomas Cordell in August 2019. The Auditor 1, Philip Jesmonth, has been in the position since November 2015.

The volunteer members of the PROC rely on the support of the staff to conduct its meetings and handle routine firm matters related to peer review. The staff review the firms' annual statement on peer review compliance, compiles the information on the firms that are monitored, and communicate outstanding matters with the firms on behalf of the volunteer PROC members.

VI. Statistics: This year's report includes the calendar year, note the timing of the reported data for prior years*. The following statistics were obtained from the PRIMA system**.

	Oct 1, 2017 to Sep 30, 2018				Oct 1, 2018 to Dec 31, 2019				Jan 1, 2020 to Dec 31, 2020				Jan 1, 2021 to Dec 31, 2021			
	NYSSCPA/ PICPA		NPRC		PICPA		NPRC		PICPA		NPRC		PICPA		NPRC	
System Reviews																
Pass	162	72%	40	85%	260	79%	57	85%	202	65%	25	86%	196	75%	36	95%
Pass with deficiencies	33	15%	2	4%	33	10%	7	10%	55	18%	1	4%	45	17%	2	5%
Fail	29	13%	5	11%	37	11%	3	5%	53	17%	3	10%	20	8%	0	0%
Subtotal – System	224		47		330		67		310		29		261		38	
Engagement Reviews																
Pass	114	81%			196	85%			86	78%			162	88%		
Pass with deficiencies	13	9%			23	10%			16	14%			13	7%		
Fail	13	9%			11	5%			9	8%			9	5%		
Subtotal – Engagement	140				230				111				184			
Total System & Engagement	411				627				450				483			

*The timing of the statistics has changed. In the past the PROC had presented statistics for the period Oct 1st to Sep 30th and as noted last year's report, the timing changed to move to the calendar year period that included an additional three months for the period Oct 1, 2018, through Dec 31, 2019. This year the statistics are presented on the calendar year.

**As reported in previous years, due to complications resulting from the AICPA's transfer of the Peer Review Program's monitoring software from PRISM to PRIMA, this data may not be fully reliable as there have been noted discrepancies.

VII. Meetings, Accomplishments and Advocacy Efforts

Following are the meetings, accomplishments, and advocacy efforts in 2021.

a. Committee Meetings - The PROC holds meetings to conduct business and report to the Department regarding the effectiveness of the mandatory peer review program. Minutes from each public meeting are available upon request.

Since the last annual report was issued, the PROC, despite COVID-19, has held the following virtual meetings:

- February 3, 2021
- May 19, 2021
- August 11, 2021
- October 27, 2021

On July 28, 2021, the Chair of the PROC attended the State Board for Public Accountancy's virtual Board meeting to present its 2020 Annual Report.

b. Administering Entity (AE) Status – PICPA submits its Plan of Administration (POA) to the AICPA. The Chair of the PROC contacted PICPA to obtain a copy of its POA. The PICPA sought the approval from the AICPA to release to the POA to the PROC. The Chair of the PROC held several conversations with the AICPA peer review staff before PICPA released the POA to the PROC. The PROC obtained a copy of the accepted POA and agreed to accept it at its October meeting. However, the PROC was concerned with several items listed in the POA pertaining to the PROC and the Commissioner's Regulations and asked for the Chair and Executive Secretary of the PROC to contact PICPA to discuss. The Chair and Executive Secretary of the PROC held a virtual meeting with the Director of the Peer Review Program at PICPA.

The Chair of the PROC attempted to obtain the POAs from New England Peer Review and NJCPAs as there are numerous NY firms that have their peer review administered by those administering entities. The two Administering Entities were hesitant to release the Plan of Administration without approval by the AICPA. Further,

the AICPA instructed the NJCPAs to have the NY PROC contact the NJ PROC as the NJCPAs is not the primary AE for NY firms. The POA was not provided. The NEPR released the POA without any attachments.

c. Oversight of the Peer Review Committee (PRC) and Report Acceptance Body (RAB) of PICPA - To continue the Committee's monitoring of the sponsoring organization, on July 27, 2021, Ms. Singer attended a PRC meeting. Mr. Mertz and Ms. Singer attended a RAB meeting on August 24 and October 7, 2021, respectively.

The PROC members who attended these meetings unanimously agreed the program is run by dedicated professionals in accordance with the AICPA standards. Based on the report from the members who attended the meetings, the PROC agreed that the PRC is well informed and engaged in the process and the RAB meetings are organized and well run. The conclusion regarding the PRC oversight by the PROC members was that the peer review program was administered in accordance with the AICPA standards.

d. Rules and Regulations - A revised set of rules and regulations was approved by the PROC and submitted to the Department in the summer of 2020. In June 2021 they were presented to the Board of Regents and were permanently adopted in November 2021. Reference additional information in item III above.

e. PCAOB - Interim Inspection Program Related to Audits of Broker and Dealers. The PROC continues to monitor the various reports related to the inspections of public accounting firms providing audits and the related attestation engagements for Brokers and Dealers. The reports continue to find issues with firms that perform a limited number of these engagements. Effective for AICPA Peer Reviews commencing on or after May 1, 2022, the AICPA Peer Review Board (PRB) has determined that engagements subject to PCAOB permanent inspection are no longer to be included for AICPA peer review inspection. While the PCAOB still has not made a final determination on permanent inspection, the PRB has decided the audits and related compliance and exemption engagements for broker-dealers registered with the SEC or dually registered with both the SEC and Commodity Futures Trading Commission (CFTC) will no longer be included in the AICPA peer review program. Only the audits of broker-dealer only registered with CFTC and the Securities and Investor Protection Corporation (SIPC) agreed-upon procedures engagements for SEC registered broker-dealers now fall within the scope of the AICPA Peer Review Program.

f. AICPA Peer Review Board (PRB) Open Meetings - The PROC monitors the AICPA's PRB's public sessions throughout the year. PROC members and staff attend these meetings via teleconference and report back to the full PROC. The sessions are informative and allow for an exchange of ideas and practices across state lines. The following PRB meetings were attended:

- February 11, 2021
- May 19, 2021
- September 2, 2021
- October 16, 2021

g. Quality Control Materials (QCM) – In 2021, the PROC reviewed the updates to the QCM that were approved by the National Peer Review Committee.

h. Monitoring of Firms in Peer Review - The PROC monitors firms throughout the remediation phase of their peer review, where applicable. Firms are informed by letter that the PROC is monitoring their remediation progress and are required to acknowledge receipt of the letter. Remediation is considered complete when the peer review is accepted as complete by the respective Peer Review Committee. The PROC also monitors the firms that have dropped out of the program and those that are terminated by the program. The determination to monitor, continue to monitor, or remove from monitoring is done at the PROC meetings in executive session.

System and Engagement Reviews that have a rating of fail or pass with deficiencies are monitored by the PROC. During 2021, the PROC has monitored 215 firms, including firms that have been carried over from the prior year. During this time, 100 of these firms had their peer reviews accepted as complete, while 115 firms are still being actively monitored. During 2020, due to COVID-19 all firms that had open corrective actions received an authorized extension by the AICPA. Extensions continued into 2021, however, were on a case-by-case basis.

i. As part of the changes to the regulations previously mentioned, the PROC has increased the number of referrals to the Office of Professional Discipline.

VIII. Recommendations

The PROC recommends that the Department continue its Sponsoring Organization Agreement with the PICPA.

IX. Conclusions

Based on its oversight activities, the PROC concluded that the Pennsylvania Institute of Certified Public Accountants has been an effective administrator as the Mandatory Peer Review Program's (MPRP) Sponsoring Organization. The PROC has established an oversight role utilizing the PICPA; however, the AICPA's changes to the Chapter 3 of the AICPA Peer Review Standards, continue to impede our oversight efforts by making it difficult to obtain timely information about the status of a firm's peer review. Based on the PROCs interaction with the PICPA, the PROC is confident that the MPRP will continue to be an effective program monitoring firms in New York State.