

Opinion No. 41-3763

April 10, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. C. R. Sebastian State Comptroller Santa Fe, New Mexico

{*58} This will acknowledge receipt of your letter dated April 3, 1941, in which you request an opinion from this office with regard to the examination and registration of public accountants and whether or not the State Board of Accountancy may set forth regulations applying to all public accountants whether or not they be certified.

Sections 108-101 to 108-110, New Mexico Statutes Annotated, 1929 Compilation, (Section 108-104 having been amended by Chapter 146, Laws of 1937) provides for the examination of certified public accountants, establishes a board of accountancy and regulates generally the practice of certified public accountants. There is one section in this act, to-wit, Section 108-110, which seems to apply not only to certified public accountants but also to public accountants. This section provides in part as follows:

"If any person practicing in this state as a certified public accountant under this act, or if any person who is in the practice of public accountancy as a certified public accountant **or otherwise**, shall be found guilty of gross negligence or carelessness, or shall willfully falsify any report, statement, or any examination, investigation or audit made by him or under his direction, he shall be deemed guilty of a felony, * * *."

It is clear to me that any person practicing public accountancy, whether he is a certified public accountant or not, that that person is subject to the penalties set forth in the above quoted section.

Inasmuch as the other provisions of this act do not mention persons who practice public accountancy and who are not certified, I am of the opinion that the board of accountancy may not regulate or examine such persons.

Trusting that the foregoing sufficiently answers your question, I am,

By GEO. H. HUNKER, Jr.

Asst. Atty. General