

**CALIFORNIA BOARD OF ACCOUNTANCY REGULATIONS**

(California Code of Regulations, Title 16, Division 1)

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## **Article 1. General**

### **§ 1. Definition of “Accountancy Act.”**

“Accountancy Act” as used in these regulations means Division 3, Chapter 1, of the Business and Professions Code.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Section 5010, Business and Professions Code.

### **§ 2. Confusing Titles.**

The following are titles or designations likely to be confused with the titles Certified Public Accountant and Public Accountant within the meaning of Section 5058 of the Business and Professions Code:

- (a) “Accountant,” “auditor,” “accounting,” or “auditing,” when used either singly or collectively or in conjunction with other titles.
- (b) Any other titles or designations which imply that the individual is engaged in the practice of public accountancy.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5055, 5056 and 5058, Business and Professions Code.

### **§ 2.4. Definition of Attest Services and Attest Report.**

Attest services as used in Section 5095 of the Business and Professions Code and attest report as used in Section 5096.5 of the Business and Professions Code include an audit, a review of financial statements, or an examination of prospective financial information. Attest services shall not include the issuance of compiled financial statements.

Note: Authority cited: Sections 5010, 5095 and 5096.9, Business and Professions Code. Reference: Sections 5095 and 5096.5, Business and Professions Code.

### **§ 2.5. Definition of “Audits.”**

“Making audits -as a part of bookkeeping operations,” as used in Section 5052 of the Business and Professions Code, refers to the evaluation of financial and operational data solely for review by management and not intended for distribution to outside parties, and does not include those activities set forth in Sections 5051(c) and (d) of the Business and Professions Code.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5051 and 5052, Business and Professions Code.

### **§ 2.8. Definition of Satisfactory Evidence.**

For the purposes of this division, satisfactory evidence as to educational qualifications for examination and licensure shall take the form of certified transcripts of the applicant's college record, mailed directly to the Board from the educational institution. In unusual circumstances, the Board may accept such other evidence as it deems appropriate and reasonably conclusive. For foreign education, in addition to certified transcripts of the applicant's college record, satisfactory evidence includes an evaluation of educational credentials by a credentials evaluation service approved by the Board pursuant to Section 9.1.

Note: Authority cited: Sections 5010 and 5094, Business and Professions Code. Reference: Sections 5092, 5093, 5094, 5094.3 and 5094.6, Business and Professions Code.

### **§ 3. Notification of Change of Address.**

- (a) Address Notification -Individual Licensees

(1) Each licensee shall notify the Board of any change in his or her address of record within 30 days after the change. The address of record is public information. If the address of record is a post office box or mail drop, the change of address notification shall include the street address of either the licensee's primary place of employment or his or her residence.

(2) For purposes of this section, "licensee" includes any holder of an active, inactive, suspended, or expired certified public accountant license or public accountant license issued by the Board which is not canceled or revoked.

(3) All notification required under this subsection shall be in writing and shall be signed by the licensee.

**(b) Notification of Change of Address -Licensed Firm**

(1) Each licensed firm shall notify the Board of any change in its address of record within 30 days after the change. The address of record is public information. If the address of record is a post office box or mail drop, the change of address notification shall include the street address of the firm's principal office.

(2) For purposes of this section "licensed firm" includes any partnership or professional corporation licensed by the Board to practice public accountancy even if the license is suspended or expired, provided the license is not canceled or revoked.

(3) All notifications required under this subsection shall be in writing and shall be signed by a licensed partner or licensed shareholder of the firm.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 136 and 5009, Business and Professions Code.

**§ 4. Safe Harbor Language.**

A person who is not licensed by the California Board of Accountancy, and who prepares a financial report in a form substantially the same as that set forth in subsection (a) or (b) below, shall not be deemed to be engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code.

(a) "I [we] have prepared the accompanying financial statements of [name of entity] as of [time period] for the [period] then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management [owners].

I [we] have not audited, reviewed, or compiled the accompanying financial statements. I [we] do not express an opinion or any other form of assurance on them.

I [we] am [are] not required to be licensed by the California Board of Accountancy for the preparation of these financial statements."

(b) "We [I] have prepared the accompanying statement of assets, liabilities and equity for [name of company] as of [month-day-year], together with the related statements of revenue, expense, [and cash flow] for the year [or month] then ended on the income tax basis of accounting.

The preparation of financial statements on the income tax basis of accounting is limited to presenting information that is the representation of management [the owners]. We [I] have not audited, reviewed, or compiled the accompanying statements. We [I] do not express an opinion or any other form of assurance on them.

Management has [The owners have] elected to omit substantially all of the disclosures ordinarily included in financial statements prepared on the income tax basis of accounting. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the company's assets, liabilities, equity, revenues, expenses [and cash flow]. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We [I] are [am] not required to be licensed by the California Board of Accountancy for the preparation of these financial statements."



Note: Authority cited: Sections 5010, Business and Professions Code. Reference: Sections 5051 and 5052, Business and Professions Code.

**§ 5. Observance of Rules.**

A licensee of the State Board of Accountancy engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code or engaged in an occupation in which the licensee renders services of the type performed by certified public accountants or public accountants or renders other professional services shall observe and is subject to rules and regulations of the State Board of Accountancy in the conduct of such activity. For purposes of Section 5, the term “activity” includes but is not limited to bookkeeping, financial planning, investment planning, tax services and management services.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5051, Business and Professions Code.

**§ 5.1. Permit Processing Times. [Repealed]**

Note: Authority cited: Section 5010, Business and Professions Code. Section 15376, Government Code. Reference: Section 15376, Government Code.

**§ 5.2. Definition of “Accountancy Act.” [Renumbered]**

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5000-5157, Business and Professions Code.

**§ 5.3. Observance of Rules. [Renumbered]**

Note: Authority cited: Section 5010, Business and Professions Code.

**§ 5.5. Substantial Equivalency.**

(a) The Board has determined that the following states require education, examination, and experience qualifications for licensure, when issuing a certified public accountant license to practice public accountancy, substantially equivalent to this state's qualifications:

Alabama, Alaska, Arizona, Arkansas, Commonwealth of the Northern Mariana Islands, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

(b) Individuals who have not continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least four of the last 10 years, or who do not hold a license issued by a state that is listed in subdivision (a), shall meet the following requirements in order for their education, examination, and experience qualifications to be considered substantially equivalent to this state's qualifications:

(1) Obtain an individual qualification evaluation of substantial equivalency by the National Association of State Boards of Accountancy's (NASBA) CredentialNet. Prior to practicing in California under a practice privilege, an individual shall apply to NASBA's CredentialNet, pay the required fee, and obtain the required substantial equivalency determination.

(2) The individual shall retain the NASBA file number, present it to the Board upon request, and authorize the Board to review the NASBA file upon request.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Sections 5032, 5093 and 5096, Business and Professions Code.

## **Article 2. Examinations**

### **§ 6. Examination Required, Passing Grades, Provisions for Disabled Applicants.**

- (a) Every candidate for the CPA license is required to pass or to have passed the Uniform Certified Public Accountant Examination prepared by the American Institute of Certified Public Accountants or to otherwise have met the examination requirements of Business and Professions Code Sections 5082, 5092, or 5093 and the requirements of this article.
- (b) The passing score for any section of the Uniform Certified Public Accountant Examination is 75.
- (c) A disabled candidate, upon request and presentation of satisfactory evidence of need, in accordance with the Americans with Disabilities Act will be afforded such accommodation in the examination procedures or the examination conditions as may be reasonable.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 313.2, 5082, 5082.1, 5082.3, 5092 and 5093, Business and Professions Code.

#### **§ 6.1. Additional Requirements for Computer-Based Testing.**

Upon the commencement of computer-based testing in California, applicants are responsible for contacting the National Association of State Boards of Accountancy to obtain a Notice to Schedule pursuant to Section 8.1 and the examination test centers to obtain a date to examine. Applicants shall pay all required fees and comply with test center procedures and rules.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5082, 5082.1, 5082.2, 5092, 5093 and 5131, Business and Professions Code.

### **§ 7. Conditional Examination Credit Requirements for Applicants Who Will Be Applying for Licensure Pursuant to Business and Professions Code Section 5090(b). [Repealed]**

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 114, 5082, 5082.2 and 5090, Business and Professions Code.

#### **§ 7.1. Credit Status for the Computerized Uniform CPA Examination.**

- (a) Upon the commencement of computer-based testing in California, an applicant may sit for the four sections of the computer-based Uniform Certified Public Accountant Examination individually and in any order. An applicant who fails to pass any section of the examination may retake that section. When the applicant has credit for all four sections of the examination within an 18-month period as defined in subsection (b), the applicant shall be considered to have passed the examination.
- (b) Except as provided in subsections (c) and (d), an applicant shall retain credit for any section the applicant has passed for an 18-month period beginning with the date that the section of the exam was passed. At the end of the 18-month period, credit for that section expires, and that section must be re-taken and passed to re-establish credit.
- (c) A candidate may sit for any unpassed section of the examination only one time during each testing window. A testing window is a three-month period as determined by the American Institute of Certified Public Accountants during which applicants may take the exam. There are four three-month testing windows in a year. To allow for routine maintenance, the exam may be unavailable for up to one month during each testing window.

(d) Credit for passed examination sections may be extended by the Board because the applicant was prevented from sitting for an unpassed section or sections before credit for passed sections expired pursuant to subsections (b) or (c) because of one of the following events:

- (1) Death of an immediate family member. Documentation, such as a copy of the death certificate, must be submitted.
- (2) Catastrophic illness, contagious disease, or major traumatic injury to the candidate or immediate family member (spouse, child or parent). Submit an original letter on letterhead from the physician, which includes the date(s), nature of the illness, and the physician's signature.
- (3) Natural disaster (earthquake, flood, fire, etc.).
- (4) Non-issuance of visa for travel to the U.S. Documentation, such as an official letter from the U.S. Embassy or a copy of the passport indicating a visa was requested, must be submitted.
- (5) Other good cause.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5081, 5082, 5082.1, 5082.2, 5092 and 5093, Business and Professions Code.

### **§ 7.2. Transition to Computer Based Testing. [Repealed]**

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5081, 5082, 5082.1, 5082.2, 5090, 5092 and 5093, Business and Professions Code.

### **§ 8. Examination Final Filing Dates. [Repealed]**

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5081, 5082, 5082.1, 5082.2, 5092 and 5093, Business and Professions Code.

### **§ 8.1. The Authorization to Test and Notice to Schedule for the Computer-Based Uniform CPA Examination.**

(a) An Authorization to Test (ATT) is issued by the Board to permit the applicant to test for specified sections of the computer-based Uniform Certified Public Accountant Examination. An ATT for a specified section or sections of the exam shall go into effect (be open) on the date of issuance. Within 90 calendar days of the date the ATT is issued, the applicant must remit the required fees to the National Association of State Boards of Accountancy to obtain a Notice to Schedule (NTS) pursuant to Section 6.1. If the applicant fails to remit fees and obtain the NTS, the ATT shall be deemed expired and the applicant must reapply and be issued another ATT to be able to test for that section.

(b) The NTS will enable the applicant to schedule testing at an examination test center. Except as provided in subsection (e), the NTS shall remain open until either the applicant schedules testing for the specified section(s) or nine months have transpired since the date the NTS was issued, whichever occurs first. The ATT will remain open until the applicant completes testing for the specified section(s) or nine months have transpired since the date the NTS was issued, whichever occurs first.

(c) If for any reason an applicant does not pass a section of the exam during the time the applicant holds an open ATT for that section, the applicant cannot test for that section until the applicant reapplies and is issued another ATT for that section pursuant to Section 8.2.

(d) An ATT may be suspended by the Board based on a report from the National Association of State Boards of Accountancy that its National Candidate Database has identified that the applicant holds another open ATT for the same section of the exam, has unpaid fees, or may have engaged in subversion of the exam. An ATT may also be suspended by the Board for other good cause.

- (e) The nine-month time periods specified in subsection (b) may be extended by the Board because the applicant was prevented from testing due to one of the following events:
- (1) Death of an immediate family member, when accompanied by documentation, such as a copy of the death certificate.
  - (2) Catastrophic illness, contagious disease, or major traumatic injury to the candidate or immediate family member (spouse, child or parent), when accompanied by an original letter on letterhead from the physician, which includes the date(s), nature of the illness, and the physician's signature.
  - (3) Natural disaster (earthquake, flood, fire, etc.).
  - (4) Non-issuance of visa for travel to the U.S., when accompanied by documentation, such as an official letter from the U.S. Embassy or a copy of the passport indicating a visa was requested.
  - (5) Other good cause.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5081, 5082, 5082.1, 5082.2, 5092, 5093 and 5131, Business and Professions Code.

### **§ 8.2. Requirements for Issuance of the Authorization to Test.**

- (a) An application for an Authorization to Test (ATT) for the computer-based Uniform CPA Examination pursuant to Section 8.1 must be complete including the candidate's name, application date, date of birth, address, telephone number, summary of education, the appropriate fees pursuant to Section 70, and a signature (or the electronic equivalent) authorizing the release of application information to the National Association of State Boards of Accountancy and the designated exam administrator. The application must also specify the section(s) of the exam the applicant is applying to take. First-time applicants must also provide official transcripts and/or foreign evaluations pursuant to Section 9.2.
- (b) An applicant shall not have more than one open ATT for any section of the examination at the same time. At the time of application and during the time any ATT issued by the California Board of Accountancy is open, the applicant shall not have an open ATT for the same section in any other state or jurisdiction.
- (c) The applicant shall not apply to take, or take, any section or sections of the examination for which the applicant holds unexpired credit pursuant to Section 7.1, with the following exception: An applicant for reissuance who does not currently hold a Certified Public Accountant license in another jurisdiction may retake the examination pursuant to Section 37 of these regulations.
- (d) The applicant shall certify at the time of application that he or she is in compliance with subsections (b) and (c). Falsifying this certification; or including any false, fraudulent, or materially misleading statements on the application for the examination; or including any material omission on the application for the examination shall be cause for action by the Board pursuant to Business and Professions Code 5110.
- (e) Except for a CPA who is required to take specified sections of the examination pursuant to a disciplinary action of the Board, no CPA shall apply to take, or take, any section of the Uniform Certified Public Accountant Examination. A CPA who fails to comply with this requirement shall be subject to disciplinary action by the Board.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5081, 5082, 5082.1, 5082.2, 5092, 5093 and 5131, Business and Professions Code.

**§ 9. Educational Requirement for Applicants Who Will Be Applying for Licensure Pursuant to Business and Professions Code Section 5090(b). [Repealed]**

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5081, 5081.1, 5084 and 5090, Business and Professions Code.

**§ 9.1. Approved Credential Evaluation Service Status.**

(a) To receive and to maintain Board approval, a credentials evaluation service shall: submit an application on Form 11A-54 (11/17), which is incorporated by reference and comply with the following:

- (1) Be a member of and certify to its membership in either the American Association of Collegiate Registrars and Admission Officers, the National Association of Foreign Student Affairs, or the National Association of Credential Evaluation Services;
  - (2) Furnish the Board with a copy of its current written procedure for identifying fraudulent transcripts, and certify on the application to compliance with that procedure;
  - (3) Certify on the application that it maintains a complete set of reference materials, that the references are adequate to prepare complete, accurate evaluations and are the most current editions available;
  - (4) Furnish the Board with resumes or curriculum vitae for each evaluator and translator, which shall provide biographical information, including a list of languages spoken and years in service. The service shall have at least one senior staff member with not less than five years of foreign student college admission experience or closely related credentials evaluation experience at all academic levels;
  - (5) Furnish the Board with its organization chart showing the ratio of senior staff members to junior staff members is, at most, one to five, and shall not exceed that ratio;
  - (6) Furnish the Board with written evidence that a minimum of 50% of the evaluations performed by junior staff members are reviewed by senior staff members, and shall maintain at least that minimum; for the purposes of this paragraph, "written evidence" means it provides as a part of the application, for the previous five years, the total number of evaluations performed, the total number of evaluations performed by junior staff members, and the total number of evaluations performed by junior staff members that were reviewed by senior staff members.
  - (7) Furnish the Board with a list of at least three accredited colleges and universities or other licensing agencies using its services;
  - (8) Furnish the Board with three letters of reference, written within the last year, from public or private agencies;
  - (9) Furnish the Board with a copy of its appeal procedure for applicants, and certify to compliance with that procedure on the application;
  - (10) For the initial application, furnish the Board with a sample evaluation that complies with the requirements of subdivision (b);
  - (11) For the initial application, certifies it has, or agrees to establish within thirty days of Board approval, a minimum six-year document retention policy;
  - (12) As a condition of renewal, a credentials evaluation service shall certify continued compliance with a minimum six-year document retention policy.
- (b) Each evaluation provided by the Board approved service shall:
- (1) Affirm in a written statement that the evaluation is based only upon authenticated, original transcripts and degrees received directly from the educational institution or its governing body;
  - (2) Include certified copies of all original transcripts;
  - (3) Be furnished directly to the Board, in English; on tamper-proof paper,
  - (4) Identify the primary evaluator and any secondary evaluator;

- (5) Include the name or names of the applicant as shown on the transcripts as well as the name under which the applicant requested the evaluation;
  - (6) Include a report of each degree held by the applicant along with the equivalent degree offered in the United States, the date the degree was granted and the institution granting the degree;
  - (7) Provide the total number of semester units completed and evaluated;
  - (8) Include a listing of the course titles with the semester unit equivalent for each course listed in chronological order without categorization, extra emphasis, or distinguishing formatting for any of the courses listed;
  - (9) Include the following disclaimer: “This evaluation service is not authorized by the California Board of Accountancy to include in this evaluation any opinion as to whether certain courses will be accepted by the Board as meeting the Board's requirements or whether the applicant meets the Board's requirements for taking the Uniform CPA Examination or for licensure.”
- (c) The credentials evaluation service shall report to the Board annually whether it has undergone any organizational changes, including any change in the ratio required in subdivision (a)(5), or any change in ownership. Approval issued under this section shall expire five years after the date of issuance unless renewed by the Board prior to its expiration by meeting the requirements in subsection (a). For purposes of this subdivision, “change in ownership” means any change in legal ownership of the approved credentials evaluation service or its business entity form, including the acquisition by a person of more than 50% of an interest in or stock of the business entity's parent company, change of the business entity by incorporation or conversion of the business to another business entity form or a change in the corporate status that requires a new corporate number as issued by the Secretary of State.
- (d) In order to remain as a Board approved credentials evaluations service, the credentials evaluation service shall respond to any inquiries by the Board, submit any documents requested by the Board, provide any information requested by the Board and cooperate in any investigation conducted by the Board regarding the service's compliance with the Board's requirements.
- (e) Approval may be withdrawn at any time if the credentials evaluation service fails to comply with any of the requirements of this section or furnishes false, inaccurate, incomplete or misleading information to the Board.
- (f) A credentials evaluation service that received Board approval prior to the date this subdivision becomes effective shall meet the requirements of this section at its next renewal.

Note: Authority cited: Sections 5010 and 5094, Business and Professions Code. Reference: Section 5094, Business and Professions Code.

### **§ 9.2. Education Required Under Business and Professions Code Sections 5092 and 5093.**

- (a) Each applicant shall present satisfactory evidence that he or she has received a baccalaureate or higher degree, has completed the accounting subjects specified in subsection (b) of this section, and has completed the business-related subjects specified in subsection (c) of this section.
- (b) The applicant shall have completed a minimum of 24 semester units, or the equivalent in quarter units, selected from the following accounting subjects: accounting, auditing, financial reporting, external or internal reporting, financial statement analysis or taxation.
- (c) In addition to the accounting courses described in subsection (b), an applicant shall have completed a minimum of 24 semester units, or the equivalent in quarter units, selected from the following business-related subjects: accounting subjects in excess of the 24 semester units as described in subsection (b), business administration, economics, finance, business management, marketing, computer science/information systems, statistics, business communications, mathematics, business law, or business related law courses offered by an accredited law school.

(d) Qualifying education shall be completed within the following time frames specified in this subsection:

(1) Except as provided for in subsection (d)(2), applicants shall complete the education required by this section before applying for examination for the first time.

(2) An applicant who applied, qualified, and sat for at least two subjects of the examination for the Certified Public Accountant License before May 15, 2002, may provide evidence of qualifying education at the time of application for licensure.

(e) For purposes of this article, one quarter unit is equivalent to two-thirds of one semester unit.

Note: Authority cited: Sections 5010, 5092 and 5093, Business and Professions Code.

Reference: Sections 5092, 5093, 5094.3 and 5094.6, Business and Professions Code.

#### **§ 10. Examination on Rules of Professional Conduct.**

All applicants for a certified public accountant license shall pass an examination in professional ethics, acceptable to the Board, before such license is to be issued. This professional ethics examination shall be passed no sooner than two years prior to the Board's consideration of the application for licensure.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5018, 5082, 5092 and 5093, Business and Professions Code.

#### **§ 11. Education Required to Apply for Certified Public Accountant License.**

(a) An applicant for certified public accountant licensure after December 31, 2013, shall meet all of the following requirements:

(1) Completion of 24 semester units, or the equivalent in quarter units, of accounting subjects as described in Section 9.2(b),

(2) Completion of 24 semester units, or the equivalent in quarter units, of business-related subjects as described in Section 9.2(c),

(3) Completion of 20 semester units, or the equivalent in quarter units, of accounting study as described in Section 11.1; and

(4) Completion of 10 semester units, or the equivalent in quarter units, of ethics study as described in Business and Professions Code Section 5094.3.

(b) An applicant shall present satisfactory evidence that he or she has completed the units required in subsection (a).

Note: Authority cited: Sections 5010, 5093 and 5094.6, Business and Professions Code.

Reference: Sections 5093, 5094, 5094.3 and 5094.6, Business and Professions Code.

##### **§ 11.1. Accounting Study.**

(a) For an applicant to satisfy the accounting study requirement described in Section 11(a)(3), he or she shall meet either of the following requirements:

(1) Conferral of a Master of Accounting, Master of Taxation, or Master of Laws in Taxation degree, or;

(2) Completion of 20 semester units, or the equivalent in quarter units, that satisfy the following requirements:

(A) A minimum of six semester units, or the equivalent in quarter units, shall be completed in accounting subjects as described in Section 9.2(b),

(B) A maximum of 14 semester units, or the equivalent in quarter units, may be completed in business-related subjects as described in Section 9.2(c),

(C) A maximum of nine semester units, or the equivalent in quarter units, may be completed in other academic work relevant to accounting and business; and

(D) A maximum of four semester units, or the equivalent in quarter units, may come from internships or independent studies courses which meet the subject matter requirements of Section 11.1(a)(2)(A) or (B).

(b) For the purposes of this section, “other academic work relevant to accounting and business” means:

(1) A maximum of three semester units, or the equivalent in quarter units, in courses that increase an applicant's oral, verbal, written, and presentation skills, as well as increase his or her ability to gather, critically analyze and assess, and reach conclusions. Courses counted towards this requirement shall be completed in any of the following disciplines: English, Communications, Journalism, or the Physical, Life, Natural, and Social Sciences;

(2) A maximum of three semester units, or the equivalent in quarter units, in courses in foreign languages, which may include sign language, or in courses containing the word “culture,” “cultural,” or “ethnic” in the course title; and,

(3) A maximum of three semester units, or the equivalent in quarter units, in courses that provide applicants with information on the business, economic, or financial market within which a particular industry operates. Courses shall either include the word “industry” or “administration” in the course title, or be completed in one of the following disciplines: Engineering, Architecture, or Real Estate.

Note: Authority cited: Sections 5010, 5093 and 5094.6, Business and Professions Code.

Reference: Sections 5093 and 5094.6, Business and Professions Code.

### **§ 11.5. Experience Requirements for Applicants Who Will Be Applying for Licensure Pursuant to Business and Professions Code Section 5090(b). [Repealed]**

Note: Authority cited: Sections 5010, 5018, and 5083, Business and Professions Code.

Reference: Section 5023, 5083 and 5090, Business and Professions Code.

### **§ 12. General Experience Required Under Business and Professions Code Sections 5092 and 5093.**

(a) In order to meet the experience requirement of Section 5092 or Section 5093 of the Business and Professions Code, experience must be supervised by a person holding a valid, active license or comparable authority to practice public accounting as specified in subdivision (d) of Section 5092 or subdivision (d) of Section 5093. Supervised experience means that the applicant's supervisor shall have reviewed and evaluated the applicant's qualifying work, pursuant to subsection (b) on a routine and recurring basis and shall have authority and oversight over the applicant.

(1) Experience shall be verified by the person supervising the experience and by a second person with a higher level of responsibility in the public accounting firm, private industry company, or governmental agency. If the experience is obtained in public accounting, the second person signing the verification shall be an owner of the public accounting firm holding a valid license or comparable authority to practice public accounting. If the owner of the public accounting firm or private industry company signing the verification is also the person supervising the experience, no second signature is required.

(2) Experience may not be supervised by a licensee who provides public accounting services to the applicant's employer.

(3)(A) All verifications shall be submitted to the Board on Form 11A-29 (11/17) for public accounting experience or Form 11A-29A (11/17) for private industry and governmental



accounting experience, which are hereby incorporated by reference, and shall be signed under penalty of perjury.

(B) If the applicant is unable to obtain the verifications required in subsection (a)(3)(A), the Board may approve other forms of verification if they contain the information as required in subsection (a)(3)(A).

(b) The experience required by Section 5092 or Section 5093 involves providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. Qualifying experience may be gained through employment in public accounting, private industry, or government. Experience acquired in academia is considered qualifying if the requirements of Section 12.1 are met.

(c) The experience required by Section 5092 or Section 5093 of the Business and Professions Code may be obtained in full-time or part-time employment provided the total experience completed by the applicant is the equivalent of at least two years of full-time employment for an applicant qualifying under Section 5092 or at least one year of full-time employment for an applicant qualifying under Section 5093. In evaluating an applicant's experience, 170 hours of part-time employment shall be considered equivalent to one month of full-time employment.

(d) An applicant who is applying with experience obtained five (5) or more years prior to application and who has not passed the Uniform CPA Examination during this five-year period shall be required to complete 80 hours of continuing education, which shall meet the following requirements:

(1) The 80 hours must be completed in the two years preceding approval of the application by the Board.

(2) All 80 hours must meet the requirements as described in Section 87(a)(2)-(4) and Section 88.

(3) Certificates of completion must be submitted to the Board and shall contain a verification certified by a program provider representative such as a signature or seal. The certificate of completion must also delineate the subject areas, as described in Section 87(a)(2) and (3), for which the applicant may claim credit.

Note: Authority cited: Sections 5010, 5092 and 5093, Business and Professions Code.

Reference: Sections 5092 and 5093, Business and Professions Code.

### **§ 12.1. Experience in Academia.**

(a) Pursuant to Business and Professions Code section 5093(d)(3), experience in academia qualifies as general accounting experience for certified public accountant licensure if it meets the requirements provided in this section.

(b) In evaluating an applicant's experience in academia, 48 semester units of instruction, or its equivalent in quarter units, shall be considered equivalent to one year of general accounting experience.

(c) Experience in academia shall be qualifying when the applicant is the instructor for a course meeting the following requirements:

(1) The course was in a subject listed in section 9.2(b); and

(2) The course was taught at an accredited institution as described in Business and Professions Code section 5094(b).

(d)(1) All experience must be verified by the dean, head, or chair of the applicant's department who has authority and oversight over the applicant. The verification shall be submitted to the Board on Form 11A-29B (11/17) entitled "Certificate of Experience in Academia," which is hereby incorporated by reference.

(2) If the applicant is unable to obtain the verifications required in subsection (d)(1), the Board may approve other forms of verification if they contain the information as required in subsection (d)(1).

(e)(1) Experience in academia may be combined with other general accounting experience meeting the requirements of Section 12 at a ratio of four semester units, or its equivalent in quarter units, to one month of general accounting experience.

(2) Notwithstanding subdivision (e)(1), the total qualifying general accounting experience needed for licensure shall not be obtained in less than 12 calendar months.

(f) An applicant who is applying with experience obtained five (5) or more years prior to application and who has not passed the Uniform CPA Examination during this five-year period shall be required to complete 80 hours of continuing education, which shall meet the following requirements:

(1) The 80 hours must be completed in the two years preceding approval of the application by the Board.

(2) All 80 hours must meet the requirements as described in Section 87(a)(2-4) and Section 88.

(3) Certificates of completion must be submitted to the Board and shall contain a verification certified by a program provider representative such as a signature or seal. The certificate of completion must also delineate the subject areas, as described in Section 87(a)(2) and (3), for which the applicant may claim credit.

Note: Authority cited: Sections 5010 and 5093, Business and Professions Code. Reference: Section 5093, Business and Professions Code.

#### **§ 12.5. Attest Experience Under Business and Professions Code Section 5095.**

(a) To be authorized to sign reports on attest engagements pursuant to Business and Professions Code Section 5095, an applicant for a California Certified Public Accountant license pursuant to Business and Professions Code Sections 5087, 5092 or 5093 or holder of an unexpired valid, active California Certified Public Accountant license issued pursuant to Business and Professions Code Sections 5087, 5092, or 5093 shall show to the satisfaction of the Board that he or she meets the requirements of this section and Business and Professions Code Section 5095.

(1) Some or all of the experience required by Section 5095 and this section may be completed prior to issuance of the California Certified Public Accountant license. Any experience that would be qualifying for purposes of Section 5095 and this section may also serve as qualifying experience for purposes of Sections 5092 or 5093. To be qualifying for purposes of Section 5095 and this section, any experience obtained after issuance of the California Certified Public Accountant license must be obtained while the license is held in active status.

(2) A holder of an active California Certified Public Accountant license may commence signing reports on attest engagements upon receipt of notification from the Board that he or she has met the requirements of this section and Business and Professions Code Section 5095. A holder of an inactive California Certified Public Accountant license may apply under this section, but must convert the license to active status before commencing to sign reports on attest engagements.

(3) An applicant for the California Certified Public Accountant license who has met the requirements of this section and Business and Professions Code Section 5095 may commence signing reports on attest engagements upon license issuance.

(b) In order to meet the attest experience requirements of Section 5095 an applicant for or holder of a California Certified Public Accountant license shall show to the satisfaction of the Board

that the applicant has completed a minimum of 500 hours of attest experience. This experience shall include all of the following:

- (1) Experience in the planning of the audit including the selection of the procedures to be performed.
  - (2) Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions included in financial statements.
  - (3) Experience in the preparation of working papers in connection with the various elements of (1) and (2) above.
  - (4) Experience in the preparation of written explanations and comments on the work performed and its findings.
  - (5) Experience in the preparation of and reporting on full disclosure financial statements as part of the Audit or other Attest Services. This does not include experience earned through the performance of preparation engagements in accordance with the provisions of the Statements on Standards for Accounting and Review Services (SSARS).
- (c) Qualifying experience may be gained through employment in public accounting, private industry, or government. Experience acquired in academia is not qualifying.
- (d) In order to be qualifying, experience obtained pursuant to Section 5095 of the Business and Professions Code must be supervised by a person holding a valid active license or comparable authority to provide attest services as specified in subdivision (b) of Business and Professions Code Section 5095. Supervised experience means that the applicant's supervisor shall have reviewed and evaluated the applicant's qualifying work, pursuant to subsection (b) on a routine and recurring basis and shall have authority and oversight over the applicant.
- (1) Experience shall be verified by the person supervising the experience and by a second person with a higher level of responsibility in the public accounting firm, private industry company, or governmental agency. If the experience is obtained in public accounting, the second person signing the verification shall be an owner of the public accounting firm holding a valid license or comparable authority to practice public accounting. If the owner of the public accounting firm or private industry company signing the verification is also the person supervising the experience, no second signature is required.
- (2) Experience may not be supervised by a licensee who provides public accounting services to the applicant's employer.
- (3)(A) All verifications shall be submitted to the Board on Form 11A-6A (4/20) for public accounting experience or on Form 11A-6 (4/20) for private industry or governmental accounting experience, which are hereby incorporated by reference, and shall be signed under penalty of perjury.
- (B) If the applicant is unable to obtain the verifications required in subsection (d)(3)(A), the Board may approve other forms of verification if they contain the information as required in subsection (d)(3)(A).
- (e) In order to demonstrate the completion of qualifying experience, an applicant for or holder of a California Certified Public Accountant license may be required to appear before the Qualifications Committee to present work papers, or other evidence, substantiating that his or her experience meets the requirements of Section 5095 of the Business and Professions Code and of subsection (b) of this section.
- (f) The applicant who is applying with attest experience obtained outside the United States and its territories must present work papers substantiating that such experience meets the requirements of subsection (b) and generally accepted auditing standards. Alternatively, the applicant may acquire a minimum of 500 hours of United States experience which meets the requirements of Business and Professions Code Section 5095 and subsection (b).

(g) An applicant who is applying with experience obtained five (5) or more years prior to application and who has not passed the Uniform CPA Examination during this five-year period shall be required to complete 80 hours of continuing education, which shall meet the following requirements:

- (1) The 80 hours must be completed in the two years preceding approval of the application by the Board.
- (2) All 80 hours must meet the requirements as described in Section 88.
- (3) The 80 hours must include, at a minimum, the following:
  - (A) 16 hours in financial accounting standards.
  - (B) 16 hours in auditing standards.
  - (C) 8 hours in compilation and review.
  - (D) 8 hours in other comprehensive basis of accounting.
  - (E) 8 hours in the prevention, detection, and/or reporting of fraud affecting financial statements.
  - (F) 24 hours in courses that meet the requirements of Section 87(a)(2) or Section 87(a)(3).
- (4) Certificates of completion must be submitted to the Board and shall contain a verification certified by a program provider representative such as a signature or seal. The certificate of completion must also delineate the subject areas for which the applicant may claim credit.
- (h) The experience required by Section 5092, 5093, or 5095 of the Business and Professions Code may be obtained in full-time or part-time employment provided the total experience completed by the applicant is the equivalent of at least two years of full-time employment for an applicant qualifying under Section 5092 or at least one year of full-time employment for an applicant qualifying under Section 5093. In evaluating an applicant's experience, 170 hours of part-time employment shall be considered equivalent to one month of full-time employment.

NOTE: Authority cited: Sections 5010 and 5095, Business and Professions Code.

Reference: Section 5023, 5092, 5093 and 5095, Business and Professions Code.

### **Article 2.5. License Status**

#### **§ 13. Applicants Who Applied for the Examination Prior to May 15, 2002.**

(a) Only an applicant who applied, qualified, and sat for at least two subjects of the examination as a California applicant prior to May 15, 2002, may satisfy the examination requirement and qualify for licensure under the requirements that were in effect on December 31, 2010. Such California applicant must, however, qualify and apply for licensure prior to January 1, 2010. Sections 7, 9, and 11.5 of these regulations apply only to these applicants.

(b) As an alternative to qualifying for licensure in accordance with the requirements described in subsection (a), an applicant for the Certified Public Accountant license who applied, qualified, and sat for at least two subjects of the examination as a California applicant prior to May 15, 2002, may qualify for licensure by meeting the requirements of Business and Professions Code Section 5092 or 5093 and the requirements of this article. The applicant may retain the examination scores he or she has received and may apply these scores toward meeting the requirements of Section 5092 or 5093.

Note: Authority cited: Sections 5010, 5092 and 5093, Business and Professions Code.

Reference: Section 5090, 5092 and 5093, Business and Professions Code.

#### **§ 14. Changing Pathways. [Repealed]**

Note: Authority cited: Sections 5010, 5092 and 5093, Business and Professions Code.

Reference: Sections 5091, 5092 and 5093, Business and Professions Code.

### **§ 15. Retired Status.**

(a) Beginning July 1, 2104, upon application to the Board and compliance with this Article and Section 5070.1 of the Business and Professions Code, a licensee may have his or her license placed in a retired status. This Article shall not prohibit a holder of a license in a retired status from receiving a share of the net profits from a public accounting firm or other compensation from a public accounting firm, provided that the licensee does not otherwise engage in the practice of public accountancy.

(b) Failure to maintain compliance with this article and Sections 5058.3 or 5070.1 of the Business and Professions Code is unprofessional conduct and grounds for revocation or discipline of the retired license.

Note: Authority cited: Sections 5010 and 5070.1, Business and Professions Code. Reference: Sections 5058.3, 5070.1, 5100 and 5109, Business and Professions Code.

#### **§ 15.1. Application for Retired Status.**

(a) To be eligible for a license in a retired status, a licensee of the Board shall submit a completed application to the Board on Form 11R-48 (12/19) which is hereby incorporated by reference.

(b) A licensee applying to have his or her license placed in a retired status shall have held a license as a certified public accountant or public accountant in the United States or its territories for a minimum of twenty total years; and during those twenty years, from the Board for a minimum of five years in an active status. Failure to meet the requirements of this Article and Section 5070.1 of the Business and Professions Code is grounds for denial of the application.

(c) In order to place a license in a retired status, an applicant shall pay the application fee required by Section 70(i)(1).

Note: Authority cited: Sections 5010 and 5070.1, Business and Professions Code. Reference: Section 5070.1, Business and Professions Code.

#### **§ 15.2. Renewal of a License in a Retired Status.**

(a) A licensee shall renew a license in a retired status during the same time period in which a license in an active status is renewed as described in Section 5070.5 of the Business and Professions Code.

(b) At the time of renewal, the holder of a license in a retired status is exempt from paying the renewal fee described in Section 70(e).

(c) At the time of renewal, the holder of a license in a retired status is exempt from the Board's continuing education requirements described in Section 87.

Note: Authority cited: Sections 5010 and 5070.1, Business and Professions Code. Reference: Section 5070.1 and 5070.5, Business and Professions Code.

#### **§ 15.3. Restoration of a License from a Retired Status to Active Status.**

(a) At the time of renewal, the holder of a license in a retired status may restore his or her license to an active status by paying the fee described in Section 70(i)(2) and complying with the continuing education requirements as described in Section 87. A minimum of 20 hours of continuing education shall be completed in the one-year period immediately preceding the time of renewal, 12 hours of which must be in subject areas described in Section 88(a)(1).

(b) The holder of a license in a retired status may restore the license to an active status prior to the next renewal by paying the fee described in Section 70(i)(2) and by meeting the continuing education requirements as described in Section 87.1.

Note: Authority cited: Sections 5010 and 5070.1, Business and Professions Code. Reference: Section 5070.1, Business and Professions Code.

#### **§ 15.4. Limitation on Retired Status.**

A licensee may be granted a license in a retired status under this Article on no more than two separate occasions.

Note: Authority cited: Sections 5010 and 5070.1, Business and Professions Code. Reference: Section 5070.1, Business and Professions Code.

#### **§ 16. Military Inactive Status.**

Beginning January 1, 2014, a licensee engaged in active duty as a member of the California National Guard or the United States Armed Forces may apply to have his or her license placed in, and renewed in, a military inactive status by completing the Application for Military Inactive Status (Form 11R-49 (12/19)), which is hereby incorporated by reference. Along with the Application for Military Inactive Status (Form 11 R-49 (12/19)), a licensee shall submit sufficient evidence that he or she is engaged in active duty as a member of the California National Guard or the United States Armed Forces.

Note: Authority cited: Sections 5010 and 5070.2, Business and Professions Code. Reference: Sections 5070.2 and 5070.5, Business and Professions Code.

##### **§ 16.1. Definitions.**

(a) For the purposes of this article and Section 5070.2 of the Business and Professions Code, the following definitions shall apply:

(1) “Sufficient evidence of active duty as a member of the California National Guard or the United States Armed Forces” shall include copies of current Leave and Earnings Statements or military orders.

(2) “Evidence of discharge date” shall mean a completed “Certificate of Release or Discharge from Active Duty” (DD Form 214).

Note: Authority cited: Sections 5010 and 5070.2, Business and Professions Code. Reference: Section 5070.2, Business and Professions Code.

##### **§ 16.2. Status Conversion of a License in a Military Inactive Status.**

(a) The holder of a license in a military inactive status may convert the license to an active status by notifying the Board in writing, providing evidence of discharge date, paying the fee described in subsection (c), complying with the peer review reporting requirements of Section 45(a) by his or her next renewal date, and complying with the continuing education requirements as described in Section 87. A minimum of 20 hours of continuing education shall be completed in the one-year period immediately preceding the date of conversion to active status, 12 hours of which must be in subject areas described in Section 88(a)(1).

(b) The holder of a license in a military inactive status may convert the license to an inactive status by notifying the Board in writing, providing evidence of discharge date, and paying the fee described in subsection (c).

(c) The fee to be paid at status conversion shall be as follows:

(1) For a status conversion requested more than 12 months prior to the renewal date as described in Section 5070.5 of the Business and Professions Code, the fee for conversion shall be the same as the fee described in Section 70(e).

(2) For a status conversion requested 12 months or less prior to the renewal date as described in Section 5070.5 of the Business and Professions Code, the fee for conversion shall be waived.

(d) If the licensee is still engaged in active duty at the time of conversion, sufficient evidence of active duty as a member of the California National Guard or the United States Armed Forces shall be provided in lieu of the evidence of discharge date required in subsection (a) and (b).

Note: Authority cited: Sections 5010 and 5070.2, Business and Professions Code. Reference: Section 5070.2, Business and Professions Code.

### **§ 17. Conditional Credit. [Renumbered]**

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5082 and 5087, Business and Professions Code.

## **Article 3. Practice Privileges**

### **§ 18. Purpose of this Article and Definitions.**

(a) This article implements Article 5.1 of Chapter 1 of Division 3 of the Business and Professions Code related to practice privileges.

(b) For the purposes of this article and Article 5.1 of Chapter 1 of Division 3 of the Business and Professions Code, the following definitions shall apply:

(1) “Minor traffic violation” shall mean traffic infractions under \$1000 not involving alcohol, dangerous drugs, or controlled substances.

(2) “Principal place of business” shall mean the office location designated by the licensee for the purposes of practice privilege.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Section 5096, Business and Professions Code.

### **§ 19. Practice Privilege Forms for Individuals.**

(a) An individual who is required to provide notification to the Board pursuant to Section 5096(i)(1) of the Business and Professions Code shall do so on the Practice Privilege Pre-Notification of Listed Events Form (PP-10 (12/19)), which is hereby incorporated by reference.

(b) An individual who is required to provide notification to the Board pursuant to Section 5096(f) of the Business and Professions Code shall do so on the Notification of Cessation of Practice Privilege Form (PP-11 (12/19)), which is hereby incorporated by reference.

(c) An individual applying for reinstatement of a practice privilege under Section 5096.2(c) of the Business and Professions Code shall do so on the Application for Reinstatement of Practice Privilege (PP-12 (11/17)), which is hereby incorporated by reference.

(d) An individual who is required to provide notification to the Board pursuant to Section 5096(e)(10) of the Business and Professions Code shall do so on the Practice Privilege Notification of Pending Criminal Charges (PP-15 (12/19)) form, which is hereby incorporated by reference.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Sections 5096 and 5096.2, Business and Professions Code.

**§ 20. Registration Forms for Out-of-State Accounting Firms.**

(a) An out-of-state accounting firm organized and authorized to practice public accountancy under the laws of another state, as specified in Business and Professions Code Sections 5070 and 5035.3, that performs

services pursuant to Business and Professions Code Section 5096.12(c), which requires the accounting firm to register with the Board, shall do so on the Out-of-State Accounting Firm Registration Form (PP-13 (12/19)), which is hereby incorporated by reference.

(b)(1) An out-of-state accounting firm registered by the Board pursuant to subdivision (a) shall renew its registration on the last day of the month in which the registration was initially approved by the Board every second year.

(2) The out-of-state accounting firm shall provide the following information at the time of renewal:

(A) Current contact information;

(B) Current license information from all states in which the firm is licensed including license number, expiration date and any enforcement actions taken against the license including the following:

(i) Pending disciplinary action such as an accusation filed;

(ii) Revocation or suspension, including stayed revocation or stayed suspension;

(iii) Probation or other limitation on practice ordered by a state board of accountancy, including any interim suspension order;

(iv) Temporary restraining order or other restriction on practice ordered by a court;

(v) Public letter of reprimand issued;

(vi) Infraction, citation, or fine imposed; or,

(vii) Any other enforcement related orders of a state board of accountancy; and

(C) An update of the ownership information that was originally reported on the Out-of-State Accounting Firm Registration Form (PP-13 (12/19)).

(3) An expired registration may be renewed at any time within five years after its expiration upon providing the information required in paragraph (2). A registration that is not renewed within five years following its expiration may not be renewed, and the registration shall be canceled immediately upon expiration of the five-year period. An out-of-state accounting firm with a registration that has cancelled pursuant to this paragraph may re-register pursuant to subdivision (a).

(c)(1) Each registered out-of-state accounting firm shall notify the Board of any change in its address of record within 30 days after the change. If the address of record is a post office box or mail drop, the change of address notification shall include the street address of the firm.

(2) Each registered out-of-state accounting firm shall notify the Board of any change in its ownership, as reported on the Out-of-State Accounting Firm Registration Form (PP-13 (12/19)), within 30 days after the change.

(3) For purposes of this section “registered firm” includes any firm registered by the Board pursuant to this section even if the registration is suspended or otherwise subject to disciplinary action, provided the registration is not expired, canceled or revoked.

(4) All notifications required under this subdivision shall be in writing and shall be signed by an individual authorized by the registered firm to submit such notifications along with the individual's printed name and title, and a certification that the information is true and correct to the best of the individual's knowledge.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Section 5096.12, Business and Professions Code.



## **§ 21. Appeals.**

(a) Any individual practicing or wanting to practice under a practice privilege who wishes to contest an action taken by the Board or the Executive Officer under Section 5096(g), 5096(h), or 5096(i) of the Business and Professions Code may appeal such action to the Board. The appeal shall be filed within 15 days of the date of the action or written notification of the action from the Board. Two signed copies of the appeal shall be mailed or delivered to the office of the California Board of Accountancy. The appeal shall contain the following information:

(1) The name, business address, residence address, and state of licensure of the out-of-state licensee making the appeal.

(2) The action being appealed and the date of the action or written notification of the action from the Board.

(3) A summary of the basis for the appeal, including any information which the out-of-state licensee believes was not given adequate consideration by the Board or the Executive Officer.

(b) If the action taken under Section 5096(g), 5096(h), or 5096(i) of the Business and Professions Code was taken by the Executive Officer, the Board will consider only appeals based on information previously considered by the Executive Officer. If the individual wishes to submit for consideration additional evidence or information not previously submitted to the Executive Officer, such additional information should be submitted with the request for appeal. An appeal based on evidence or information not previously submitted to the Executive Officer will be referred by the Board to the Executive Officer for further consideration.

(c) The out-of-state licensee shall comply with any action or order of the Board until such time as the appeal is acted upon.

Note: Authority cited: Section 5010 and 5096.9, Business and Professions Code. Reference: Sections 5096, 5096.6, 5103 and 5108, Business and Professions Code; and Section 11415.50, Government Code.

## **§ 21.5. Waiver of Examination for Certain Foreign Applicants. [Repealed]**

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5082 and 5087, Business and Professions Code.

## **§ 22. Notice of Intent to Administratively Suspend.**

(a) Prior to the issuance of an Administrative Suspension Order pursuant to Business and Professions Code Section 5096.4, the Executive Officer may issue a Notice of Intent to Administratively Suspend. The Notice of Intent to Administratively Suspend shall be in writing and shall be mailed to a state board of accountancy with which the practice privilege holder is licensed.

(b) The Notice of Intent to Administratively Suspend shall include a description of the contents of the Administrative Suspension Order pursuant to subdivision (c) of Section 5096.4.

(c) The Notice of Intent to Administratively Suspend shall provide the practice privilege holder with 30 days from the date of mailing in which to respond in writing by showing cause to the Executive Officer why the Administrative Suspension Order should not be issued.

(d) The Executive Officer shall determine whether or not the Administrative Suspension Order shall be issued and shall so inform the practice privilege holder in writing.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Sections 5096 and 5096.4, Business and Professions Code.

**Article 4. Practice Privileges (Inoperative on July 1, 2013)**

**§ 26. Purpose of this Article.**

(a) This Article implements Article 5.1 of the Accountancy Act (commencing with Business and Professions Code Section 5096) related to Practice Privileges.

(b) This article shall be inoperative commencing on July 1, 2013. See Article 3 for practice privilege regulations that are operative commencing July 1, 2013.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Sections 5096-5096.15, Business and Professions Code.

**§ 27. Qualifications for the Practice Privilege.**

To be eligible for a practice privilege, an individual whose principal place of business is not in California and who holds a valid, current license, certificate, or permit to practice public accountancy issued by another state shall meet the requirements of Business and Professions Code Section 5096 including, but not limited to, satisfying one of the following:

(a) Hold a current, valid license, certificate, or permit issued by another state, if the requirements under which that license, certificate, or permit was issued are deemed by the Board to be substantially equivalent to the requirements in Business and Professions Code Section 5093;

(b) Possess education, examination, and experience qualifications that have been determined by the Board to be substantially equivalent to the qualifications under Business and Professions Code Section 5093. Pursuant to subdivision (b) of Business and Professions Code Section 5096, the Board accepts individual qualification evaluations of substantial equivalency by the National Association of State Boards of Accountancy's (NASBA's) CredentialNet. Prior to seeking a practice privilege under this paragraph, an individual shall apply to NASBA's CredentialNet, pay the required fee, and obtain the required substantial equivalency determination. The individual shall report the NASBA file number on the Notification Form submitted pursuant to Section 28 and shall authorize the Board to review the NASBA file upon request; or

(c) Have continually practiced public accountancy as a Certified Public Accountant under a current, valid license issued by any state for four of the last ten years.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Section 5096, Business and Professions Code.

**§ 28. Notification.**

(a) To obtain a practice privilege, an individual meeting the requirements of Section 27 shall notify the Board by submitting the fully completed Notification Form provided at the end of this Section or the electronic equivalent provided by the Board on its Web site, and shall pay the fee as required by Sections 31 and 70. Except for the electronic signature which is provided for in subsection (c), the electronic version of the form shall be identical in content to the paper version of the Notification Form provided at the end of this section.

(b) The license which shall be reported on Item 3 of "Qualification Requirements" on the Notification Form and "the license upon which the substantial equivalency is based" referenced in subdivision (e) of Business and Professions Code Section 5096 is the license under which an individual qualifies for a practice privilege pursuant to subsection (a) of Section 27, or the license in the state of the principal place of business for an individual who qualifies for a practice privilege under subsection (b) or (c) of Section 27.

(c) The electronic version of the Notification Form shall provide for a certification and electronic signature as follows:

I understand that any misrepresentation or omission in connection with this notification disqualifies me from the California practice privilege and is cause for termination. Further I

authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. By typing my name in the box below and clicking the “I Agree” button I certify under penalty of perjury under the laws of the State of California that the forgoing information is true and correct. If I am not prepared to so certify, I understand that I should click the “Cancel” button to discontinue the notification process.

Full name \_\_\_\_\_

I Agree \_\_\_\_\_

Cancel

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Sections 5088, 5096, 5096.3, 5096.4, 5096.5, 5096.13, 5096.14 and 5096.15, Business and Professions Code; and Section 1633.2, Civil Code.

### **§ 29. Term of the Practice Privilege.**

(a) Except when prior approval by the Board is required pursuant to Section 32, the practice privilege commences on the date the Notification Form is electronically submitted to the Board, on the postmark date of a Notification Form submitted to the Board by mail, or on the date a Notification Form is submitted to the Board via facsimile. When prior approval by the Board is required pursuant to Section 32, the practice privilege commences on the date the practice privilege is approved by the Board.

(b) Except as provided in subsection (c), a practice privilege, including a practice privilege that is or has been on administrative suspension pursuant to Business and Professions Code Section 5096.4, expires one year from the date the Notification Form is submitted to the Board or on the date a subsequent Notification Form is submitted to the Board, whichever occurs first.

(c) A practice privilege held by an applicant for a California license expires one year from the date the Notification Form is submitted to the Board or on the date the California license is issued by the Board, whichever occurs first.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Sections 5088, 5096 and 5096.4, Business and Professions Code.

### **§ 30. Safe Harbor - Period of the Notice. [Repealed]**

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Sections 125.9, 5096, 5096 5096.3 and 5096.14, Business and Professions Code.

### **§ 31. Payment of the Fee.**

The fee required by Section 70(h) must be received by the Board within 30 days of the date the Notification Form is submitted to the Board.

(a) In addition to any other applicable sanction, an individual is subject to a fine of \$100 to \$500 for the first failure to pay the practice privilege fee within 30 days of the commencement of the practice privilege, including attempting to pay with a check that is subsequently dishonored. In assessing a fine amount, consideration shall be given to the factors listed in Section 95.3.

(b) In addition to any other applicable sanction, an individual is subject to a fine of \$250 to \$1,000 for any subsequent occurrence of failure to pay the practice privilege fee within 30 days, including attempting to pay with a check that is subsequently dishonored. In assessing a fine amount, consideration shall be given to the factors listed in Section 95.3.

(c) In addition to the fines described in this Section and any other applicable sanction, an individual is also subject to an administrative suspension for failure to pay the fee, including attempting to pay with a check that is subsequently dishonored. This administrative suspension

shall remain in effect until the Board gives its approval for the individual to resume practice and shall not extend the term of the practice privilege.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Sections 125.9, 5096, 5096.3 and 5096.4, Business and Professions Code.

### **§ 32. Board Approval Required.**

(a) An individual submitting a Notification Form pursuant to Section 28 who has any of the conditions listed in subsection (c) of this Section may not commence practice under a practice privilege without prior approval of the Board.

(b) A holder of a practice privilege who acquires any of the conditions listed in subsection (c) of this Section during the term of the practice privilege shall cease practicing immediately and shall not begin practicing again without prior approval of the Board.

(c) Conditions requiring Board approval to practice under a practice privilege:

(1) The individual is convicted of a crime other than a minor traffic violation.

(2) The individual has had a revocation, suspension, denial, surrender, or other discipline or sanction involving any license or other authority to practice any profession in California or in any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board (PCAOB), except for the following occurrences:

(A) An action by a state board of accountancy in which the only sanction was a requirement that the individual complete specified continuing education courses.

(B) The revocation of a license or other authority to practice public accountancy, other than the license identified in Item 3 of the Qualification Requirements on the Notification Form, solely because of failure to complete continuing education or failure to renew.

(3) The individual is the subject of an investigation, inquiry, or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving his or her professional conduct.

(4) The individual held a practice privilege in California that expired while under administrative suspension or with an unpaid fine.

(5) The individual has failed to respond to the satisfaction of the Board to a request for information from the Board regarding a matter related to a current or prior practice privilege.

(6) The individual has been notified by the Board that prior Board approval is required before practice under a new practice privilege may commence.

(7) The individual has had a judgment or arbitration award in an amount of \$30,000 or greater entered against him or her in a civil matter involving the professional conduct of the individual.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Section 5096, Business and Professions Code.

### **§ 33. Changes to Information on the Notification.**

(a) An individual shall report in writing to the Board changes in the information reported on the Notification Form within 30 days of the change.

(b) In addition to any other applicable sanctions, an individual is subject to a fine of \$250 to \$5,000 for failure to comply with the requirements of this Section. In assessing a fine amount, consideration shall be given to the factors listed in Section 95.3.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Sections 125.9, 5096 and 5096.3, Business and Professions Code.

### **§ 34. Response to Board Inquiry.**

(a) In addition to any other applicable sanction, failure to comply with the obligation to respond to Board inquiry pursuant to Section 5096(e)(5) could result in one or more of the following:

(1) Issuance of a fine of \$250 to \$5,000;

(2) An administrative suspension of a current practice privilege pursuant to Business and Professions Code Section 5096.4; or

(3) The requirement to obtain the approval of the Board before commencing to practice under a future practice privilege.

(b) In assessing a fine amount, consideration shall be given to the factors listed in Section 95.3.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Sections 125.9, 5096, 5096.3 and 5096.4, Business and Professions Code.

### **§ 35. Continuing Education Requirement.**

An individual practicing under a practice privilege shall meet the continuing education requirements of the state of licensure identified in Item 3 of the Qualification Requirements on the Notification Form.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Section 5096, Business and Professions Code.

#### **§ 35.1. Notice of Intent to Administratively Suspend.**

(a) Prior to the issuance of an Administrative Suspension Order pursuant to Business and Professions Code Section 5096.4, the Executive Officer may issue to the holder of a practice privilege a Notice of Intent to Administratively Suspend. The Notice of Intent to Administratively Suspend shall be in writing and shall be mailed to the practice privilege holder's address of record.

(b) The Notice of Intent to Administratively Suspend shall include a description of the contents of the Administrative Suspension Order pursuant to subdivision (c) of Section 5096.4.

(c) The Notice of Intent to Administratively Suspend shall provide the holder with a specified period of time in which to respond in writing by showing cause to the Executive Officer why the Administrative Suspension Order should not be issued.

(d) The Executive Officer shall determine whether or not the Administrative Suspension Order shall be issued and shall so inform the practice privilege holder in writing.

Note: Authority cited: Sections 5010 and 5096.9, Business and Professions Code. Reference: Section 5096.4, Business and Professions Code.

## **Article 5. Registration**

### **§ 36. Forfeiture of Eligibility.**

An applicant who fails to pay the required initial permit fee within two years after being notified by the board of his or her eligibility for a permit shall be deemed to have abandoned the application and must file a new application in compliance with all of the requirements for a permit which are in effect at the time of reapplication.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5070, 5070.7, 5130 and 5134, Business and Professions Code.

#### **§ 36.1. Out-of-State Licensee.**

(a) The Board will consider applications filed under Section 5087 from holders of current, active, and unrestricted Certified Public Accountant licenses issued under the laws of any state. The

Board may deny an application when the facts indicate that the applicant has been a California resident before, during or after having obtained a CPA license in another state and when the facts indicate that the applicant's CPA license was obtained in another state to evade otherwise applicable California statutes and rules.

(b) An applicant pursuant to Business and Professions Code Section 5087 may be considered to have met the education, examination, and experience requirements for issuance of the California license if the applicant shows, to the satisfaction of the Board, that he or she has engaged in the practice of public accounting as a licensed Certified Public Accountant in another state for four of the ten years preceding the date of application for a California license.

(c) An applicant pursuant to Business and Professions Code Section 5087 may be considered to have met the attest experience requirement of Section 5095 if the applicant shows to the satisfaction of the Board that he or she has been authorized to provide attest services and engaged in the practice of public accounting as a Certified Public Accountant in another state for four of the ten years preceding the date of application for a California license.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5082, 5087 and 5095, Business and Professions Code.

### **§ 37. Reissuance.**

(a) A certified public accountant (CPA) whose certificate has been cancelled by the operation of Business and Professions Code Section 5070.7 may apply for and obtain a new certificate if the applicant is otherwise qualified under the provisions of Section 5070.7 and the applicant meets the requirements of subsection (b) or (c) of this section. The reissued certificate will permit the CPA to perform the same services as did the cancelled certificate except that a CPA whose cancelled certificate authorized signing reports on attest engagements may choose to be reissued a certificate that does not provide this authorization.

(b) An applicant who is applying for a reissued certificate shall complete 80 hours of continuing education that meets the following requirements:

(1) For an applicant whose reissued certificate will authorize signing reports on attest engagements, the 80 hours must be completed as follows:

(A) The 80 hours must be completed in the two years preceding approval of the application by the Board.

(B) All 80 hours must meet the requirements as described in Section 88.

(C) Within the 80 hours, the following minimums must be met:

(i) 16 hours in financial accounting standards.

(ii) 16 hours in auditing standards.

(iii) 8 hours in compilation and review.

(iv) 8 hours in other comprehensive basis of accounting.

(v) 8 hours in the prevention, detection, and/or reporting of fraud affecting financial statements.

(vi) 24 hours in courses that meet the requirements of Section 87(a)(2) or Section 87(a)(3).

(2) For an applicant whose reissued certificate will not authorize signing reports on attest engagements, 80 hours must be completed as follows:

(A) The 80 hours must be completed in the two years preceding approval of the application by the Board.

(B) All 80 hours must meet the requirements as described in Section 87(a)(2)-(4) and Section 88.

(3) Certificates of completion must be submitted to the Board and shall contain a verification certified by a program provider representative such as a signature or seal. The certificate of completion must also delineate the subject areas for which the applicant may claim credit.

(c) In lieu of meeting the requirements of subsection (b) of this section, the applicant may choose to retake and successfully complete the entire Uniform CPA examination.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5070.7, Business and Professions Code.

### **§ 37.5. Fingerprinting and Disclosure Requirements.**

(a) A licensee applying for renewal as a certified public accountant or public accountant who has not previously submitted fingerprints as a condition of licensure or for whom an electronic record of the licensee's fingerprints does not exist in the Department of Justice's criminal offender record identification database shall successfully complete a state and federal level criminal offender record information search conducted through the Department of Justice by the licensee's renewal date that occurs after December 31, 2013.

(1) A licensee shall retain for at least three years as evidence of having complied with subdivision (a) either a receipt showing that he or she has electronically transmitted his or her fingerprint images to the Department of Justice or, for those who did not use an electronic fingerprint system, a receipt evidencing that his or her fingerprints were recorded and submitted to the board.

(2) An applicant for renewal shall pay the actual cost of compliance with subdivision (a).

(3) As a condition of petitioning the board for reinstatement of a revoked or surrendered license, an applicant shall have complied with subdivision (a).

(4) The board shall waive the requirements of this section if the license is renewed in an inactive or retired status or if the licensee is actively serving in the United States military. The board shall not return a license to active status until the licensee has complied with subdivision (a).

(b) As a condition of renewal, a certified public accountant or public accountant licensee shall disclose on the renewal form whether he or she has submitted a record of fingerprints in compliance with subdivision (a).

(c) As a condition of renewal, an applicant for renewal as a certified public accountant or public accountant shall disclose on the renewal form whether he or she has been convicted, as defined in Section 490 of the Business and Professions Code, of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$1000 not involving alcohol, dangerous drugs, or controlled substances.

(d) As a condition of renewal, an applicant for renewal as a certified public accountant or public accountant shall disclose on the renewal form whether he or she has experienced the cancellation, revocation, or suspension of a certificate or right to practice by any other state or foreign body.

(e) Failure to provide all of the information required by this section renders an application for renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

Note: Authority cited: Sections 144, 462 and 5010, Business and Professions Code. Reference: Sections 144, 462, 490, 5063, 5070.5 and 5100, Business and Professions Code; and Sections 11105(b)(10) and 11105(e), Penal Code.

## **Article 6. Peer Review**

### **§ 38. Purpose of this Article.**

This Article implements Sections 5076 and 5076.1 of the Accountancy Act related to Peer Review.

Note: Authority cited: Sections 5010, 5076 and 5076.1, Business and Professions Code.  
Reference: Sections 5076 and 5076.1, Business and Professions Code.

### **§ 39. Definitions.**

The following definitions shall apply to Article 6 - Peer Review:

- (a) Accounting and Auditing Practice: Any services that are performed using the following professional standards: Statements on Auditing Standards (SASs), Statements on Standards for Accounting and Review Services (SSARS), Statements on Standards on Attestation Engagements (SSAEs), Government Auditing Standards, and audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB).
- (b) Peer Review Report: A report issued to the peer reviewed firm which documents the findings and conclusions reached by a qualified peer reviewer and issued in accordance with Section 48(b) of this Article.
- (c) Pass Peer Review Report: A report issued to the peer reviewed firm in accordance with either Section 48(b)(1)(A) or 48(b)(2)(A) of this Article.
- (d) Pass With Deficiencies Peer Review Report: A report issued to the peer reviewed firm in accordance with either Section 48(b)(1)(B) or 48(b)(2)(B) of this Article.
- (e) Substandard Peer Review Report: A report issued to the peer reviewed firm under either Section 48(b)(1)(C) or 48(b)(2)(C) of this Article.
- (f) Peer Reviewer: A certified public accountant holding a valid and active license to practice public accounting in good standing issued by this state or some other state who (1) maintains a currency of knowledge in professional standards governing accounting and auditing engagements, (2) meets the qualifications of Section 48(c) of this Article, and (3) is unaffiliated with the firm being reviewed.
- (g) Peer Review Team: One or more individuals who collectively conduct a peer review, at least one of whom is a qualified peer reviewer.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

### **§ 40. Enrollment and Participation.**

- (a) A firm performing services as defined in Section 39(a) shall have a peer review report accepted by a Board-recognized peer review program once every three years in order to renew its license.
- (b) A firm performing services as defined in Section 39(a) for the first time shall have a peer review report accepted by a Board-recognized peer review program within 18 months of the date it completes those services.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

### **§ 41. Firm Responsibilities.**

A firm shall enroll with a Board-recognized peer review program provider, and shall cooperate with the Board-recognized peer review program provider with which the firm is enrolled to arrange, schedule, and complete a peer review, in addition to taking and completing any remedial or corrective actions prescribed by the Board-recognized peer review program provider.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.



#### **§ 42. Exclusions.**

(a) The following shall be excluded from the peer review requirement:

(1) Any of a firm's engagements subject to inspection by the Public Company Accounting Oversight Board as part of its inspection program.

(2) Firms, which as their highest level of work, perform only preparation engagements (with or without disclaimer reports) in accordance with the provisions of the Statements on Standards for Accounting and Review Services (SSARS).

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 43. Extensions.**

(a) Should an extension of time be needed to have a peer review report accepted by a Board-recognized peer review program such request shall be submitted to the Board-recognized peer review program with which the firm is enrolled for consideration and approval or denial.

(b) If the extension granted extends past the firm's reporting date, the firm shall notify the Board of the extension and provide proof of the extension. The firm shall report the results of the peer review to the Board on form PR-1 (Rev. 11/17), as referenced in Section 45, within 45 days of the peer review report being accepted by a Board-recognized peer review program.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 44. Notification of Expulsion.**

A firm that is expelled by a Board-recognized peer review program shall notify the Board in writing within 30 days and provide the name of the Board-recognized peer review program and reason(s) given to the firm by the peer review program for the expulsion.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 45. Reporting to the Board.**

(a) At the time of renewal, a firm, as defined in Section 5035.1 of the Accountancy Act, shall report to the Board specific peer review information as required on Form PR-1 (Rev. 9/19), which is hereby incorporated by reference.

(b) A licensee's or firm's willful making of any false, fraudulent, or misleading statement, as part of, or in support of, the firm's peer review reporting shall constitute cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act. Failure to submit a completed Form PR-1 (Rev. 9/19) shall be grounds for non-renewal or disciplinary action pursuant to Section 5100(g) of the Accountancy Act.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Sections 5035.1, 5076 and 5100, Business and Professions Code..

#### **§ 46. Document Submission Requirements.**

(a) A firm receiving a peer review report issued under Section 48(b)(1)(C) or (b)(2)(C) shall submit a copy of the peer review report to the Board including any materials documenting the prescription of remedial or corrective actions imposed by a Board-recognized peer review program provider within 45 days of the peer review report being accepted by a Board-recognized peer review program provider. A firm shall also submit to the Board, within the same 45-day

reporting period, any materials, if available, documenting completion of any or all of the prescribed remedial or corrective actions.

(b) Upon request by the Board, a firm shall submit to the Board all requested documents related to the peer review including:

(1) If the firm received a peer review report issued under Section 48(b)(1)(A) or (b)(2)(A) it shall submit the copy of the peer review report including materials documenting the acceptance of the report.

(2) If the firm received a peer review report issued under Section 48(b)(1)(B) or (b)(2)(B) it shall submit the copy of peer review report including any materials documenting the prescription of remedial or corrective actions imposed by a Board-recognized peer review program provider. In addition, a firm shall also submit any materials, if available, documenting completion of any or all of the prescribed remedial or corrective actions.

(c) Any documents required for submission as part of this section may be submitted electronically.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 47. Peer Review Oversight Committee.**

(a) The Peer Review Oversight Committee shall be comprised of not more than seven licensees. The licensees shall maintain a valid and active license to practice public accounting in California issued by the Board.

(b) No member of the committee shall be a current member or employee of the Board.

(c) The committee shall hold meetings as necessary in order to conduct business and shall report to the Board regarding the effectiveness of mandatory peer review. This shall include an annual report to the Board regarding the results of its oversight, and shall include the scope of work, findings, and conclusions regarding its oversight.

(d) The committee is authorized to request from a Board-recognized peer review program provider those materials necessary to perform its review.

(e) Should a Board-recognized peer review program provider fail to respond to any request, the committee shall refer the matter to the Board.

(f) The committee shall review and recommend to the Board for approval peer review program provider applications for recognition by the Board.

Note: Authority cited: Sections 5010 and 5076.1, Business and Professions Code. Reference: Section 5076.1, Business and Professions Code.

#### **§ 48. Minimum Requirements for a Peer Review Program.**

For a peer review program provider to receive Board recognition and be authorized to administer peer reviews in California, the peer review program provider shall submit evidence to the satisfaction of the Board that the peer review program is comprised of a set of standards for performing, reporting on, and administering peer reviews. A peer review program shall include the following components:

(a) Peer Review Types

A peer review program shall have a minimum of two types of peer reviews that include the following:

(1) For firms performing engagements under the Statements on Auditing Standards (SASs), Government Auditing Standards, examinations of prospective financial statements under the Statements on Standards on Attestation Engagements (SSAEs), or audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public

Company Accounting Oversight Board (PCAOB), the firm shall undergo a peer review designed to test the firm's system of quality control. The scope of the peer review shall be such that it provides a peer reviewer with a reasonable assurance that a firm's system of quality control was designed in accordance with professional standards and was complied with by a firm's personnel.

(2) For firms only performing engagements under the Statements on Standards for Accounting and Review Services (SSARS) or under Statements on Standards on Attestation Engagements (SSAEs) not encompassed in review performed under subsection (a)(1), the firm shall undergo a peer review designed to test a cross-section of a firm's engagements to assess whether the engagements were performed in conformity with the applicable professional standards.

(b) Peer Review Report Issuance

(1) For firms undergoing peer reviews pursuant to subsection (a)(1), one of the following three types of peer review reports shall be issued:

(A) A peer review report indicating that a peer reviewer or peer review team concluded that a firm's system of quality control was suitably designed and complied with by the firm's personnel, which provides the firm with reasonable assurance of performing and reporting on engagements in conformity with applicable professional standards.

(B) A peer review report indicating that a peer reviewer or peer review team concluded that a firm's system of quality control was suitably designed and complied with by the firm's personnel with the exception of a certain deficiency or deficiencies that are described in the report. The deficiencies are such that the firm's design of or compliance with its system could create a situation in which the firm would have less than reasonable assurance of performing and/or reporting on engagements in conformity with applicable professional standards.

(C) A peer review report indicating that a peer reviewer or peer review team concluded that a firm's system of quality control is not suitably designed or complied with by the firm's personnel, and thus, does not provide the firm with reasonable assurance of performing and reporting on engagements in conformity with applicable professional standards.

(2) For firms undergoing peer reviews pursuant to subsection (a)(2), one of the following three types of peer review reports shall be issued:

(A) A peer review report indicating that a peer reviewer or peer review team concluded that there was no evidence which would cause the peer reviewer to believe that the engagements performed by the firm were not performed in conformity with applicable professional standards.

(B) A peer review report indicating that a peer reviewer or peer review team concluded that, with the exception of a certain deficiency or deficiencies, nothing would cause the peer reviewer to believe that the engagements performed by the firm and submitted for review were not performed in conformity with applicable professional standards. The deficiencies identified were such that the peer reviewer concluded they were material to the understanding of the report or financial statements or represented omission of critical procedures required by applicable professional standards.

(C) A peer review report indicating that a peer reviewer or peer review team concluded that the engagements reviewed were not performed and/or reported on in conformity with applicable professional standards. In issuing such report, the peer reviewer shall assess both the significance of the deficiencies identified and the pervasiveness of the deficiencies.

(c) Peer Reviewer Qualifications

A peer review program shall include minimum qualifications for an individual to qualify as a peer reviewer. The qualifications shall, at a minimum, include the following:

(1) Have a valid and active license in good standing to practice public accounting issued by this state or other state.

(2) Be actively involved and practicing at a supervisory level in a firm's accounting and auditing practice.

- (3) Maintain a currency of knowledge of the professional standards related to accounting and auditing, including those expressly related to the type or kind of practice to be reviewed.
- (4) Provide the Board-recognized peer review program provider with his/her qualifications to be a reviewer, including recent industry experience.
- (5) Be associated with a firm that has received a peer review report issued in accordance with subsection (b)(1)(A) or (b)(2)(A) of this section or has received a peer review rating of pass or unmodified as part of the American Institute of Certified Public Accountants Peer Review Program as part of the firm's last peer review.

(d) Planning and Performing Peer Reviews

A peer review program shall include minimum guidelines and/or standards for planning and performing peer reviews commensurate with the type of peer review being performed to include, but not limited to, the following:

- (1) For peer reviews performed in accordance with subsection (a)(1) of this section, a peer review program's guidelines and/or standards shall include the following:
  - (A) Ensuring that prior to performing a peer review, a peer reviewer or a peer review team takes adequate steps in planning a peer review to include the following: (i) obtain the results of a firm's prior peer review (if applicable), (ii) obtain sufficient understanding of the nature and extent of a firm's accounting and auditing practice, (iii) obtain a sufficient understanding of a firm's system of quality control and the manner in which the system is monitored by a firm, and (iv) select a representative cross-section of a firm's engagements.
  - (B) In performing a peer review, the peer reviewer or peer review team shall test the reviewed engagements while assessing the adequacy of and compliance with a firm's system of quality control. The peer review is intended to provide the peer reviewer or peer review team with reasonable basis for expressing an opinion as to whether a firm's system of quality control is suitably designed and complied with by a firm's personnel such that the firm has reasonable assurance of performing and reporting on engagements in conformity with applicable professional standards.
- (2) For peer reviews performed in accordance with subsection (a)(2) of this section, a peer review program's guidelines and/or standards shall include the following:
  - (A) Ensuring that prior to performing a peer review, a peer reviewer or peer review team select a representative cross-section of a firm's accounting and auditing engagements to include at a minimum one engagement for each partner, shareholder, owner, principal, or licensee authorized to issue reports.
  - (B) In performing a peer review, the peer reviewer or peer review team shall review the selected engagements to determine if the engagements were performed in conformity with the applicable professional standards.
- (3) Nothing in a peer review program provider's guidelines and/or standards shall prohibit a peer reviewer or peer review team from disclosing pertinent peer review-related information regarding a firm to a subsequent peer reviewer.

(e) Peer Review Program Plan of Administration and Accepting Peer Review Reports

- (1) The administration plan shall clearly outline the manner in which the peer review program provider intends on administering peer reviews and shall, at a minimum, include the following:
  - (A) Identify a peer review committee, and if necessary subcommittees, and employ knowledgeable staff for the operation of the review program as needed.
  - (B) Establish and perform procedures for ensuring that reviews are performed and reported on in accordance with the program's established standards for performing and reporting on peer reviews.

- (C) Establish a program to communicate to firms participating in the peer review program the latest developments in peer review standards and the most common findings in peer reviews conducted by the Board-recognized peer review program provider.
- (D) Establish and document procedures for an adjudication process designed to resolve any disagreement(s) which may arise out of the performance of a peer review, and resolve matters which may lead to the dismissal of a firm from the provider's peer review program.
- (E) Establish guidelines for prescribing remedial or corrective actions designed to assure correction of the deficiencies identified in a firm's peer review report.
- (F) Establish guidelines for monitoring the prescribed remedial and corrective actions to determine compliance by the reviewed firm.
- (G) Establish and document procedures for ensuring adequate peer reviewers to perform peer reviews. This shall include ensuring a breadth of knowledge related to industry experience.
- (H) Establish and document procedures to ensure the qualifications of peer reviewers and to evaluate a peer reviewer's performance on peer reviews.
- (I) Establish a training program or training programs designed to maintain or increase a peer reviewer's currency of knowledge related to performing and reporting on peer reviews.
- (J) Establish and document procedures to ensure that a firm requiring a peer review selects a peer reviewer with similar practice experience and industry knowledge, and peer reviewer is performing a peer review for a firm with which the reviewer has similar practice experience and industry knowledge.
- (K) Require the maintenance of records of peer reviews conducted under the program. Such records shall include, at a minimum, written records of all firms enrolled in the peer review program and documents required for submission under Section 46, with these documents to be retained until the completion of a firm's subsequent peer review.
- (L) Provide to the Board's Peer Review Oversight Committee access to all materials and documents required for the administration of peer reviews.
- (2) As required by subsection (e)(1)(A) of this section, the peer review program provider shall establish a peer review committee to assist in the review and acceptance of peer review reports. The peer review program provider's committee shall:
- (A) Meet regularly to consider and accept peer review reports.
- (B) Assist the peer review program provider in resolving instances in which there is a lack of cooperation and agreement between a peer reviewer and/or reviewed firm in accordance with the peer review program's adjudication process.
- (C) Make a final determination on a peer review report pursuant to subdivision (b).
- (f) The peer review committee established by the peer review program provider shall comply with the following in relation to the composition of the committee:
- (1) All committee members shall meet the peer reviewer qualification requirements established in Section 48(c).
- (2) In determining the size of the committee, consideration shall be given to the requirement for broad industry experience, and the likelihood that some members will need to recuse themselves from some reviews as a result of the member's close association to the firm or having performed the review.
- (3) No committee member may concurrently serve as a member of the Board.
- (4) A committee member may not participate in any discussion or have any vote with respect to a reviewed firm when the member lacks independence as defined by California Code of Regulations Section 65 or has a conflict of interest. Examples of conflicts of interest include, but are not limited to:
- (A) The member's firm has performed the most recent peer review of the reviewed firm's accounting and auditing practice.

(B) The member served on the review team which performed the current or the immediately preceding review of the firm.

(C) The member believes he/she cannot be impartial or objective.

(5) Each member of the committee shall comply with all confidentiality requirements. The peer review program provider shall annually require its committee members to sign a statement acknowledging their appointments and the responsibilities and obligations of their appointments.

Note: Authority Cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 48.1. Board-Recognition of the American Institute of Certified Public Accountants, Inc. Peer Review Program.**

The American Institute of Certified Public Accountants, Inc. Peer Review Program is hereby recognized as meeting the minimum peer review program requirements as outlined in Section 48 of this Article and is authorized to administer peer reviews in California. If in the future the Board deems the American Institute of Certified Public Accountants, Inc. Peer Review Program to no longer meet the minimum qualifications specified in Section 48 of this Article, the Board shall rescind its recognition pursuant to Section 48.5 of this Article.

Note: Authority cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 48.2. Applying to Become a Board-Recognized Peer Review Program.**

Prior to receiving Board recognition to perform peer reviews in California, a peer review program provider shall submit the following application: Application to Become a Board-Recognized Peer Review Program (1/10), which is hereby incorporated by reference. With the application, the firm shall submit materials evidencing the program meets the requirements outlined in Section 48.

Note: Authority Cited: Sections 5010 and 5076, Business and Professions Code. Reference: Section 5076, Business and Professions Code.

#### **§ 48.3. Board-Recognized Peer Review Program Provider Reporting Responsibilities.**

(a) Upon request of the Board or Peer Review Oversight Committee, a Board-recognized peer review program provider shall make available, at a minimum, the following:

(1) Standards, procedures, guidelines, training materials, and similar documents prepared for the use of reviewers and reviewed firms.

(2) Information concerning the extent to which the Board-recognized peer review program provider has reviewed the quality of reviewers' working papers in connection with the acceptance of reviews.

(3) Statistical data maintained by the Board-recognized peer review program provider related to its role in the administration of peer reviews.

(4) Information concerning the extent to which the Board-recognized peer review program provider has reviewed the qualifications of its reviewers.

(5) Sufficient documents to conduct sample reviews of peer reviews accepted by the Board-recognized peer review program provider. These may include, but are not limited to, the report; reviewer working papers prepared or reviewed by the Board-recognized peer review program's peer review committee in association with the acceptance of the review; and materials concerning the acceptance of the review, including, but not limited to, the imposition of required remedial or corrective actions; the monitoring procedures applied; and the results.

(b) A Board-recognized peer review program provider shall provide the Board, in writing or electronically, the name of any California-licensed firm expelled from the peer review program and provide the reason(s) for expulsion. The Board-recognized peer review program provider shall submit this information to the Board within 30 days of notifying the firm of its expulsion.

(1) Nothing in this subsection shall require a Board-recognized peer review program provider, when administering peer reviews in another state, to violate the laws of that state.

(c) A Board-recognized peer review program provider shall provide the Board, in writing or electronically, a copy of all substandard peer review reports issued to California-licensed firms within 60 days from the time the report is accepted by the Board-recognized peer review program provider.

Note: Authority cited: Sections 5010, 5076 and 5076.1, Business and Professions Code.

Reference: Sections 5076 and 5076.1, Business and Professions Code.

#### **§ 48.4. Reconsideration of a Denied Applicant.**

(a) An applicant pursuant to Section 48.2 whose peer review program has been denied by the Board may request an informal hearing of such action to the Board. The request for an informal hearing shall be filed within six months of the denial or the mailing of written notification, whichever is later. The appeal shall contain the following information:

(1) The name and business address of the provider making the appeal.

(2) The action being appealed and the date of any written notification by the Board.

(3) A summary of the basis for the request for an informal hearing, including any information which the provider believes was not given adequate consideration by the Board.

(b) The Board will consider only requests based on information previously submitted. If the provider submits for reconsideration additional evidence or information not previously submitted to the Board, such additional information should be submitted directly to the Peer Review Oversight Committee with the request that its previous recommendation be reconsidered. A request based on evidence or information not previously submitted to the Board will be referred by the Board to the Peer Review Oversight Committee for further consideration.

Note: Authority cited: Sections 5010, 5076 and 5076.1, Business and Professions Code.

Reference: Sections 5076 and 5076.1, Business and Professions Code.

#### **§ 48.5. Withdrawal of Board Recognition.**

(a) The Board may rescind and withdraw its recognition of a peer review program if it is determined that the peer review program is not in compliance with the requirements of this Article, the provider failed to respond to an informational request by the Board or the Peer Review Oversight Committee, or the provider made any material misrepresentation of fact related to any information required to be submitted to the Board or the Peer Review Oversight Committee.

(b) The order of withdrawal of Board recognition shall be issued by the Board or its executive officer, without prior notice or hearing, and is effective immediately when mailed to the peer review program provider's address of record.

(c) The order of withdrawal of Board recognition shall contain the following:

(1) The reason for the withdrawal, including the specific statutes and regulations with which the program showed non-compliance.

(2) A statement that the peer review program provider has the right, within 30 days, to request an informal hearing to appeal the withdrawal of Board recognition.

(3) A statement that any informal hearing shall be scheduled before the Board or its designee, at which time a peer review program provider shall be afforded the opportunity to be heard.

(d) To maintain recognition, the burden of proof shall be placed on the peer review program provider to demonstrate both qualifications and fitness to perform peer reviews in California by producing proof at a hearing before the Board.

(e) If the peer review program provider fails to notify the Board's executive officer in writing and in a timely manner that it desires to contest the written withdrawal of Board recognition, the decision to withdraw approval shall become final.

Note: Authority cited: Sections 5010, 5076 and 5076.1, Business and Professions Code.

Reference: Section 5076, Business and Professions Code.

#### **§ 48.6. Records of Proceedings.**

For any informal hearings conducted by the Board pursuant to Sections 48.4 and 48.5 of this Article, the Board shall maintain a record of its proceedings, such as the minutes of the meeting or an audio recording of the meeting.

Note: Authority cited: Sections 5010, 5076 and 5076.1, Business and Professions Code.

Reference: Section 5076, Business and Professions Code.

### **Article 8. Appeals**

#### **§ 49. Appeals.**

(a) Any applicant who is aggrieved by any action of any of the board's committees or its staff may appeal from such action to the board. The appeal shall be filed within 24 months of the action being appealed or the mailing of written notification from the board, whichever is later. Two signed copies of the appeal shall be mailed or delivered to the office of the California Board of Accountancy. The appeal shall contain the following information:

- (1) The name, business address and residence address of the applicant making the appeal.
- (2) The action being appealed from and the date of any written notification from the board.
- (3) A summary of the basis for the appeal, including any information which the applicant believes was not given adequate consideration by the committee or staff.

(b) The board will consider only appeals based on information previously considered by its committees or staff. If the applicant wishes to submit for consideration additional evidence or information not previously submitted to the board's committee or staff, such additional information should be submitted directly to the committee or staff within the request that its previous action be reconsidered. An appeal based on evidence or information not previously submitted to the committee or staff will be referred by the board to the appropriate committee or staff for further consideration.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5010 and 5022, Business and Professions Code.

### **Article 9. Rules of Professional Conduct**

#### **§ 50. Client Notification.**

Every licensee engaged in the practice of public accountancy shall provide notice reasonably calculated to be received by the licensee's clients of the fact that the licensee is licensed by the California Board of Accountancy. For purposes of this section, "licensee" means a Certified Public Account, Public Accountant, accountancy partnership, or accountancy corporation licensed by the California Board of Accountancy. Notice shall be provided by any of the following methods:

- (a) Displaying the certificate of licensure issued by the Board in the office or the public area of the premises where the licensee provides the licensed service.



(b) Providing a statement to each client to be signed and dated by the client and retained in that person's records that states the client understands the person is licensed by the California Board of Accountancy.

(c) Including a statement that the licensee is licensed by the California Board of Accountancy either on letterhead or on a contract for services where the notice is placed immediately above the signature line for the client in at least 12 point type.

(d) Posting a notice in a public area of the premises where the licensee provides the licensed services, in at least 48-point type, that states the named licensee is licensed by the California Board of Accountancy.

(e) Any other method of written notice, including a written notice that is electronically transmitted or a written notice posted at an Internet Website.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 138, Business and Professions Code.

### **§ 50.1. Attest Client Notification Regarding Composition of Firm Ownership.**

Any licensee employed by a firm in which no licensee owners are authorized to sign reports on attest engagements pursuant to Business and Professions Code Section 5095 must, prior to engaging in attest services, provide written notification to any attest client or prospective attest client of the ownership composition of the firm. Notice shall be provided by any of the following methods:

(a) Providing a statement to the attest client or prospective attest client to be signed and dated by the client and retained in the client's records, which states the client or prospective client understands that no firm owners are authorized to sign reports on attest engagements.

(b) Posting a written notice on the firm's Internet Web site, disclosing all owner's names and whether each is authorized to sign reports on attest engagements pursuant to Business and Professions Code Section 5095.

Note: Authority cited: Sections 5010, 5018 and 5095, Business and Professions Code. Reference: Sections 138, 5018 and 5095, Business and Professions Code.

### **§ 51. Firms with Nonlicensee Owners.**

At initial registration and at renewal, all firms shall certify that any nonlicensee owner with his or her principal place of business in this state has been informed regarding the rules of professional conduct applicable to accountancy firms. This certification shall be signed by a licensed partner or licensed shareholder of the firm.

Note: Authority cited: Sections 5010, 5018 and 5079, Business and Professions Code. Reference: Section 5079, Business and Professions Code.

#### **§ 51.1. Notification of Non-Licensee Ownership.**

(a) Any firm with a nonlicensee owner or owners that has one or more offices located in California shall notify each client served by an office located in California of the actual or potential involvement of a nonlicensee owner or owners in any service to be provided to the client by the firm. Notice shall be provided by any of the following methods:

(1) Providing a statement to each client served by a California office to be signed and dated by the client and retained in the firm's records that states that the client understands that services will or may be provided by a nonlicensee owner of the firm.

(2) Including a statement that the firm has a nonlicensee owner or owners who may provide client services in any contract for services, proposal letter, or engagement letter with the client served by a California office.

(b) A copy of the statement, contract, engagement letter, or proposal letter containing this notice shall be maintained by the public accounting firm in the client's files for a minimum of five years from the date of the notice.

Note: Authority cited: Sections 5010, 5018 and 5079, Business and Professions Code.

Reference: Section 5079, Business and Professions Code.

### **§ 52. Response to Board Inquiry.**

(a) A licensee shall respond to any inquiry by the Board or its appointed representatives within 30 days. The response shall include making available all files, working papers and other documents requested.

(b) A licensee shall respond to any subpoena issued by the Board or its executive officer or the assistant executive officer in the absence of the executive officer within 30 days and in accordance with the provisions of the Accountancy Act and other applicable laws or regulations.

(c) A licensee shall appear in person upon written notice or subpoena issued by the Board or its executive officer or the assistant executive officer in the absence of the executive officer.

(d) A licensee shall provide true and accurate information and responses to questions, subpoenas, interrogatories or other requests for information or documents and not take any action to obstruct any Board inquiry, investigation, hearing or proceeding.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5018, 5100, 5103 and 5108, Business and Professions Code.

### **§ 52.1. Failure to Appear. [Repealed]**

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5018 and 5020, Business and Professions Code.

### **§ 53. Discrimination Prohibited.**

No licensee or registrant shall engage in any conduct or practice which shall deny any person an opportunity or benefit of employment within the accounting profession based on race, color, religious creed, national origin, ancestry, physical handicap, sex, marital status, sexual orientation or age.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5018, Business and Professions Code.

### **§ 54. Confidential Information Defined, Exception.**

“Confidential information” includes all information obtained by a licensee, in his or her professional capacity, concerning a client or a prospective client, except that it does not include information obtained from a prospective client who does not subsequently become a client, where all of the following conditions are met:

(a) The licensee provides reasonable notice to the prospective client or the prospective client's representative that the information will not be treated as confidential information in the event the provider does not become a client and that providing such information will not preclude the licensee from being employed by a party adverse to the potential client in any current or future legal action or proceeding. For purposes of this section “reasonable notice” shall mean the following: (1) With respect to oral communications, including telephonic communications, reasonable notice consists of oral notice to the speaker given immediately by the licensee upon

hearing that client information is being presented or will be presented. (2) With respect to written communications, including electronic and facsimile communications, reasonable notice consists of an oral or written notice to the sender within one business day.

(b) The licensee, on request, returns the original and all copies of documents provided by the prospective client or his or her representative within 30 days.

(c) The licensee does not utilize in any manner the information obtained, except that nothing shall prohibit the licensee from utilizing the same information obtained from an independent source such as through litigation discovery.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5018, Business and Professions Code.

#### **§ 54.1. Disclosure of Confidential Information Prohibited.**

(a) No confidential information obtained by a licensee, in his or her professional capacity, concerning a client or a prospective client shall be disclosed by the licensee without the written permission of the client or prospective client, except for the following:

(1) disclosures made by a licensee in compliance with a subpoena or a summons enforceable by order of a court;

(2) disclosures made by a licensee regarding a client or prospective client to the extent that the licensee reasonably believes that it is necessary to maintain or defend himself/herself in a legal proceeding initiated by that client or prospective client;

(3) disclosures made by a licensee in response to an official inquiry from a federal or state government regulatory agency;

(4) disclosures made by a licensee or a licensee's duly authorized representative to another licensee in connection with a proposed sale or merger of the licensee's professional practice;

(5) disclosures made by a licensee to (A) another licensee to the extent necessary for purposes of professional consultation and to (B) professional standards review, ethics or quality control peer review organizations;

(6) disclosures made when specifically required by law;

(7) disclosures made at the direct request of the client to a person or entity that is designated by the client at the time of the request.

(b) In the event that confidential client information may be disclosed to persons or entities outside the United States in connection with the services provided, the licensee shall so inform the client in writing and obtain the client's written permission for the disclosure.

Note: Authority cited: Sections 5010, 5018 and 5063.3, Business and Professions Code.

Reference: Sections 5018 and 5063.3, Business and Professions Code.

#### **§ 54.2. Recipients of Confidential Information.**

Members of the Board, its appointed representatives professional practice reviewers and other persons designated in section 54.1(a)(4)-(a)(6) shall not disclose information concerning licensees or their clients which comes to their attention in carrying out their professional responsibilities; provided, however, such information may be disclosed:

(a) as part of disciplinary proceedings with the Board,

(b) as part of legal actions in which the Board is a party,

(c) in response to an official inquiry from a federal or state governmental regulatory agency,

(d) in compliance with a subpoena or summons enforceable by order of a court, or

(e) when otherwise specifically required by law.

Note: Authority cited: Sections 5010, 5018 and 5063.3, Business and Professions Code.  
Reference: Sections 5018 and 5063.3, Business and Professions Code.

**§ 55. Permission to Use Name. [Repealed]**

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5010, 5018 and 5059, Business and Professions Code.

**§ 56. Commissions -Basic Disclosure Requirement.**

(a) A licensee shall not accept any fee or commission permitted by Business and Professions Code Section 5061 unless he or she complies with the provisions of this section and Section 56.1

(b) A licensee who may receive a fee or commission pursuant to Business and Professions Code Section 5061 shall furnish to the client, at or prior to the time the recommendation of the product or service is made, a written disclosure statement in 12 point type or larger that contains the following information:

(1) The fact that the fee or commission is to be paid for professional services and that a fee or commission cannot be accepted solely for the referral of the client to the products or services of a third party.

(2) A description of the product(s) or service(s) which the licensee is recommending to the client, the identity of the third party that is expected to provide the product or service, the business relationship of the licensee to the third party, a description of any fee or commission which may be received by the licensee, including, but not limited to, any supplemental fee or commission or other compensation allocable to the client being provided with the product or service of the third party. Where the product(s) or service(s) cannot be specifically identified at the time of the initial disclosure, this information shall be included in a supplemental disclosure within 30 days of receipt of the fee or commission.

(3) The dollar amount or value of the fee or commission payment(s) or the basis on which the payment(s) shall be computed.

(c) The written disclosure shall be on letterhead of the licensed firm or shall be signed by the licensee. The disclosure statement shall be signed and dated by the client and contain an acknowledgment by the client that the client has read and understands the information contained in the disclosure. Supplemental disclosures as described in subsection (b)(2) of Section 56 need not be signed by the client or by the licensee. The licensee shall retain the disclosure statements for a period of five years and shall provide copies to the client.

Note: Authority cited: Section 5010, 5018 and 5061, Business and Professions Code. Reference: Section 5061, Business and Professions Code.

**§ 56.1. Commissions -Professional Services Provided to the Client.**

The professional services which must be provided to the client in conjunction with the products or services of a third party under Business and Professions Code Section 5061(b) shall include consultation with the client regarding the third party's product or service in relation to the client's circumstances.

Note: Authority cited: Section 5010, 5018 and 5061, Business and Professions Code. Reference: Section 5061, Business and Professions Code.

**§ 56.2. Commissions -Disclosure Requirement and Other Rules of Professional Conduct.**

Nothing in Section 56 permits a licensee either (1) to accept any fee or commission which would violate the requirement that a licensee be independent in the performance of services in

accordance with professional standards (Section 65) or (2) to concurrently engage in the practice of public accountancy and in any other business or occupation which impairs the licensee's independence, objectivity, or creates a conflict of interest in rendering professional services (Section 57). However, the act of a licensee taking a fee or commission as permitted by Business and Professions Code Section 5061 and in conformity with Section 56 does not, by itself, constitute an impairment of a licensee's objectivity or create a conflict of interest in rendering professional services.

Note: Authority cited: Section 5010, 5018 and 5061, Business and Professions Code. Reference: Sections 5018 and 5061, Business and Professions Code.

### **§ 56.3. Commissions -Definitions.**

For purposes of Sections 56, 56.1, and 56.2 of the Board's regulations the following definitions apply:

(a) "Licensee" means a Certified Public Accountant, Public Accountant, or firm licensed by the Board of Accountancy, including a firm with nonlicensee owners, that is engaged in the practice of public accountancy as defined by Business and Professions Code Section 5051.

(b) The term "a third party" means all persons other than the licensee, the licensee's client, and any licensee firm of which the licensee is an employee, partner, or owner.

(c) "The basis on which the payment(s) shall be computed" shall be a formula which can be used to calculate the dollar amount or value of the fee or commission once the dollar amount or value of the transaction is known.

Note: Authority cited: Section 5010, 5018 and 5061, Business and Professions Code. Reference: Section 5061, Business and Professions Code.

### **§ 56.4. "Officer" and "Director."**

The terms "director" and "officer" as defined under Section 5061(c) does not include a director or officer of a nonprofit corporation, or a corporation that together with any affiliates, has 100 or less employees or average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three tax years. The term "average annual gross receipts" means all pecuniary gross receipts (less returns, allowances and interaffiliate transactions), the assignment of such receipts notwithstanding, of a business concern from whatever source derived, as entered or to have been entered on its regular books of account for its most recently completed fiscal year (whether on a cash, accrual, completed contracts, percentage of completion or other commonly recognized and accepted accounting method).

Note: Authority cited: Sections 5010, 5018 and 5061, Business and Professions Code.

Reference: Section 5061, Business and Professions Code.

### **§ 57. Incompatible Occupations/Conflict of Interest.**

A licensee shall not concurrently engage in the practice of public accountancy and in any other business or occupation which impairs the licensee's independence, objectivity, or creates a conflict of interest in rendering professional services.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5018, Business and Professions Code.

## **§ 58. Compliance with Standards.**

Licenses engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5018, Business and Professions Code.

### **§ 58.1. Accountant's Report on the Examination of Financial Statements. [Repealed]**

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5010 and 5018, Business and Professions Code.

### **§ 58.2. Accountant's Report on Unaudited Financial Information of a Public Entity. [Repealed]**

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5010 and 5018, Business and Professions Code.

### **§ 58.3. Compilation and Review of Financial Statements. [Repealed]**

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5010 and 5018, Business and Professions Code.

### **§ 58.4. Unaudited Financial Statements. [Repealed]**

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5010 and 5018, Business and Professions Code.

## **§ 59. Reporting of Restatements.**

(a) To comply with the requirements of paragraph (1) of subdivision (b) of Business and Professions Code Section 5063, a licensee who issues a report on a client's restated financial statement shall report to the Board:

(1) Any restatement of a financial statement reporting the correction of any error in a previously issued financial statement of a client that is a government agency located in California, when the financial restatement(s) exceeds the planning materiality used by the licensee in conjunction with the current year audit. For purposes of this paragraph, planning materiality means the planned level of misstatements, individually or in aggregate, that would cause the financial statements to not be presented fairly, in all material respects, in conformity with generally accepted accounting principles.

(2) Any restatement of a financial statement of a charitable organization registered by the Office of the Attorney General's Registry of Charitable Trusts which is issued for purposes of correcting any error in a previously issued financial statement and which has resulted in the filing of an amended or superceding Internal Revenue Service Form 990 or 990PF.

(b) The report required by subsection (a) shall be made by the licensee issuing the report on the restatement even if the licensee did not perform the original audit. The report required by subsection (a) shall be provided to the Board within 30 days of issuance of the restatement, shall be signed by the licensee, and shall set forth the facts which constitute the reportable event including an explanation of the reason for the restatement. The report made under paragraph (a)(1) of this section shall include copies of the original and the restated financial statements. The report made under paragraph (a)(2) of this section shall include only those portions of the original and the amended Forms 990 or 990PF related to the reissued financial statement.

Note: Authority cited: Sections 5010, 5018 and 5063, Business and Professions Code.  
Reference: Section 5063, Business and Professions Code.

**§ 60. Reporting of Investigations by the Securities and Exchange Commission Pursuant to Section 5063(b)(3); Reporting of Notices of Requests for Wells Submissions Pursuant to Section 5063 (b)(4); and Reporting of Investigations by the Public Company Accounting Oversight Board Pursuant to Section 5063(b)(5).**

(a) For purposes of reporting pursuant to Section 5063 (b)(5), notice of the opening or initiation of an investigation by the Public Company Accounting Oversight Board shall include any notice by the Public Company Accounting Oversight Board that it is initiating an investigation of the licensee.

(b) Reports received by the Board pursuant to the requirements of subsection (a) of this section or of paragraphs (3), (4) or (5) of subdivision (b) of Business and Professions Code 5063 shall not be publicly disclosed other than (1) in the course of any disciplinary proceeding by the Board after the filing of a formal accusation; (2) in the course of any legal action to which the Board is a party; (3) in response to an official inquiry from a state or federal agency; (4) in response to a subpoena or summons enforceable by order of a court; or (5) when otherwise specifically required by law.

Note: Authority cited: Sections 5010, 5018 and 5063, Business and Professions Code.  
Reference: Section 5063, Business and Professions Code.

**§ 61. The Reporting of Settlements, Arbitration Awards, and Judgments.**

(a) To meet the reporting requirements of paragraph (b)(2) of Section 5063, licensees shall report settlements and arbitration awards consistent with that provision that are the result of actions brought by persons located, residing, or doing business in California.

(b) Reports of judgments in civil actions alleging negligent conduct (but not dishonesty, fraud, or gross negligence) by a licensee pursuant to paragraph (c)(1) of Section 5063 shall be limited to those judgments in which a person located, residing in or doing business in California is a named party to the action or where the alleged conduct relates to the practice of public accountancy in California. Nothing in this subsection limits a licensee's responsibility to report under any other paragraph of subdivision (c) of Section 5063.

(c) Reports received by the Board pursuant to the requirements of subsection (a) of this section shall not be publicly disclosed other than (1) in the course of any disciplinary proceeding by the Board after the filing of a formal accusation; (2) in the course of any legal action to which the Board is a party; (3) in response to an official inquiry from a state or federal agency; (4) in response to a subpoena or summons enforceable by order of a court; or (5) when otherwise specifically required by law.

Note: Authority cited: Sections 5010, 5018 and 5063, Business and Professions Code.  
Reference: Section 5063, Business and Professions Code.

**§ 62. Contingent Fees.**

(a) A licensee shall not:

(1) Perform for a contingent fee any professional services for, or receive such a fee from, a client for whom the licensee or the licensee's firm performs:

(A) An audit or review of a financial statement; or

- (B) A compilation of a financial statement when the licensee expects or reasonably should expect that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or
  - (C) An examination of prospective financial information; or
  - (D) Any other attest engagement when the licensee expects or reasonably should expect that a third party will use the related attestation report; or
  - (E) Any other services requiring independence.
- (2) Prepare an original tax return for a contingent fee for any client.
  - (3) Prepare an amended tax return, claim for tax refund, or perform other similar tax services for a contingent fee for any client.
  - (4) Perform an engagement as a testifying expert for a contingent fee.

The prohibition in (a)(1) above applies during the period in which the licensee or the licensee's firm is engaged to perform any of the services listed under (a)(1) above and the period covered by any historical financial statements involved in any such listed services.

(b) Except as stated in the next paragraph, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specific finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service.

Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or governmental entities acting in a judicial or regulatory capacity, or in tax matters if determined based upon the results of judicial proceedings or the findings of governmental agencies in a judicial or regulatory capacity or there is a reasonable expectation of substantive review by a taxing authority.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5018, Business and Professions Code.

### **§ 63. Advertising.**

A licensee shall not advertise or use other forms of solicitation in any manner which is false, fraudulent, misleading, or in violation of Section 17500 of the Business and Professions Code.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5100, Business and Professions Code.

### **§ 64. Use of Name with Estimate of Earnings. [Repealed]**

### **§ 65. Independence.**

A licensee shall be independent in the performance of services in accordance with professional standards.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5018, Business and Professions Code.

### **§ 66. Plural Designations. [Repealed]**

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5073 and 5075, Business and Professions Code.



**§ 66.1. Name of Accountancy Corporation. [Repealed]**

Note: Authority cited: Sections 5010, 5018 and 5157, Business and Professions Code.  
Reference: Sections 5055, 5121 and 5153, Business and Professions Code and Section 13409, Corporations Code.

**§ 66.2. Name of Successor Firm Having One Owner. [Repealed]**

Note: Authority cited: Section 5010, 5018 and 5157, Business and Professions Code. Reference: Section 5010, 5018, 5059 and 5153, Business and Professions Code.

**§ 67. Approval of Use of Fictitious Name.**

No sole proprietor may practice under a name other than the name set forth on his or her permit to practice unless such name has been registered with the Board. Any registration issued under this section shall expire five years after the date of issuance unless renewed prior to its expiration.

Note: Authority cited: Sections 5010, 5018 and 5060, Business and Professions Code.  
Reference: Section 5060, Business and Professions Code.

**§ 68. Retention of Client's Records.**

A licensee, after demand by or on behalf of a client, for books, records or other data, whether in written or machine sensible form, that are the client's records shall not retain such records.

Unpaid fees do not constitute justification for retention of client records.

Although, in general the accountant's working papers are the property of the licensee, if such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client, then the information on those working papers must be treated the same as if it were part of the client's books and records.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Section 5037, Business and Professions Code.

**§ 68.1. Working Papers Defined; Retention.**

(a) Working papers are the licensee's records of the procedures applied, the tests performed, the information obtained and the pertinent conclusions reached in an audit, review, compilation, tax, special report or other engagement. They include, but are not limited to, audit of other programs, analyses, memoranda, letters of confirmation and representations, abstracts of company documents and schedules or commentaries prepared or obtained by the licensee. The form of working papers may be handwriting, typewriting, printing, photocopying, photographing, computer, data, or any other letters, words, pictures, sounds, or symbols or combinations thereof.

(b) Licensees shall adopt reasonable procedures for the safe custody of working papers and shall retain working papers for a period sufficient to meet the needs of the licensee's practice and to satisfy applicable professional standards and pertinent legal requirements for record retention.

(c) Licensees shall retain working papers during the pendency of any Board investigation, disciplinary action, or other legal action involving the licensee. Licensees shall not dispose of such working papers until notified in writing by the Board of the closure of the investigation or until final disposition of the legal action or proceeding if no Board investigation is pending.

Note: Authority: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5018 and 5037, Business and Professions Code.

### **§ 68.2. Identification of Audit Documentation.**

(a) To provide for the identification of audit documentation, audit documentation shall include an index or guide to the audit documentation which identifies the components of the audit documentation.

(b) In addition to the requirements of Business and Professions Code Section 5097(b), audit documentation shall provide the date the document or working paper was completed by the preparer(s) and any reviewer(s), and shall include the identity of the preparer(s) and any reviewer(s).

(c) Audit documentation shall include both the report date and the date of issuance of the report.

Note: Authority cited: Section 5010, 5018 and 5098, Business and Professions Code. Reference: Sections 5097 and 5098, Business and Professions Code.

### **§ 68.3. Retention Period for Audit Documentation.**

(a) The retention period mandated by Business and Professions Code Section 5097 shall be measured from the date of issuance of the report (report release date).

(b) If audit documentation is required to be kept for longer than seven years because of a pending Board investigation or disciplinary action, audit documentation shall not be destroyed until the licensee has been notified in writing by the Board of the closure of a Board investigation or disciplinary proceeding.

(c) Any documents required to be maintained by Business and Professions Code Section 5097 or these regulations shall be maintained in accessible form.

(d) Audit documentation shall be retained whether or not the documentation supports the auditor's final conclusions. All audit documentation regarding any significant matter related to the audit shall be retained whether or not the documentation contains information or data inconsistent with the auditor's final conclusions. Significance of a matter shall be determined based on an objective analysis of the facts and circumstances. Audit documentation to be retained shall also include all documentation of consultations on, or resolutions of, any differences of opinion regarding the exercise of professional judgment.

Note: Authority cited: Section 5010, 5018 and 5098, Business and Professions Code. Reference: Sections 5097 and 5098, Business and Professions Code.

### **§ 68.4. The Document Assembly Period and Subsequent Changes in Audit Documentation.**

(a) Audit documentation that is not completed prior to the date of issuance of the report shall be completed during the document assembly period specified in this subsection.

(1) The document assembly period is the 60-day period following the date of issuance of the report. If the report is not issued in connection with such an engagement, the document assembly period ends 60 days after the date that the fieldwork was completed. If the auditor was unable to complete such an engagement, then the document assembly period ends 60 days from the date the engagement ceased.

(2) Notwithstanding the document assembly period specified in paragraph (1) of this subsection, licensees shall comply with applicable professional standards specifying a shorter document assembly period.

(b) After the end of the document assembly period, any, removal, deletion, substitution, or editing of audit documentation, is prohibited. Additions to audit documentation shall comply with the requirements in subsection (c).

(c) In addition to any other documentation required by professional standards, any addition to audit documentation after the end of the document assembly period shall include the following: 1) the reason for the addition, 2) the identity of the persons preparing and approving the addition,

and 3) the date of the addition. The documentation which is added shall contain sufficient detail to enable a reviewer with relevant knowledge and experience, having no previous connection with the audit engagement, to understand the nature, timing, reason for, and extent of the addition.

(d) Nothing in this section authorizes the deferral of audit procedures required to be performed prior to the date of issuance of the report.

Note: Authority cited: Section 5010, 5018 and 5098, Business and Professions Code. Reference: Sections 5097 and 5098, Business and Professions Code.

#### **§ 68.5. Audit Documentation Retention and Destruction Policy.**

(a) Licensees shall maintain, and document compliance with, a written Audit Documentation Retention and Destruction Policy which provides for the preservation of audit documentation for the full time period required by Business and Professions Code Section 5097. The policy and documentation of compliance shall be available to the Board upon request.

(b) This policy shall provide for the authorized custody, security, access, retention, and destruction of the documentation. This policy shall, at a minimum, include the following:

(1) Procedures for the maintenance of back-up copies of electronic audit documentation at secure locations,

(2) Procedures for maintaining audit documentation,

(3) Procedures for approving any changes to audit documentation,

(4) Procedures for approving the destruction of documentation when no longer required to be maintained by Business and Professions Code Section 5097.

(c) The procedure required by subsection (b)(4) shall provide for identifying the persons, by name or position, authorized to approve the destruction of audit documentation. In the alternative, the procedure required by subsection (b)(4) may be self-executing once the retention period has expired.

Note: Authority cited: Section 5010, 5018 and 5098, Business and Professions Code. Reference: Sections 5097 and 5098, Business and Professions Code.

#### **§ 69. Certification of Applicant's Experience.**

(a) Any licensee who shall have been requested by an applicant to prepare and submit to the board certification of the applicant's experience and shall have refused to prepare and submit said certification shall, when requested by the board, explain in writing, or, when so requested by the board, explain in person, the basis for refusal to complete and submit said certification.

(b) Any licensee who shall have signed a certification of experience shall, when requested by the board, explain in writing, or, when so requested by the board, explain in person, the information provided on any said certification of experience, in any situation including, but not limited to, the following:

(1) Where there is an alleged disagreement between an applicant and any licensee as to dates and/or type of work performed;

(2) Where there is satisfactorily answered certification of experience submitted to the board, but the period of experience appears to be unduly short;

(3) Where the board seeks to verify on a sample basis information submitted by an applicant or attested thereto on a certification of experience; or

(4) Where the board reasonably believes that the information in the certification of experience may be false or incorrect.

(c) Any false or misleading statement, made by a licensee as to material matters in the certification of an applicant's experience, shall constitute a violation of Section 5100(g) of the Accountancy Act.

(d) Inspection by the board or its representatives of documentation relating to an applicant's fulfillment of the experience requirements set forth in Sections 5092, 5093, and 5095 of the Accountancy Act and Sections 12 and 12.5 herein above may be made at any of the board's offices or at such other places as the board may designate.

(e) The failure or refusal, by any licensee to complete and submit a certification of experience or to comply with a request for explanation of said certification or inspection of documentation as set forth in this rule constitutes a violation of Section 5100(g) of the Accountancy Act.

(f) Any unreasonable act or failure to act which jeopardizes an applicant's chances for obtaining a certificate, shall constitute a violation of Section 5100(g) of the Accountancy Act.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5018 and 5100, Business and Professions Code.

### **§ 69.1. Failure to Appear. [Renumbered]**

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5018 and 5020, Business and Professions Code.

## **Article 10. Fees**

### **§ 70. Fees.**

(a) Commencing July 1, 2016, the application fee for the computer-based Uniform Certified Public Accountant Examination shall be \$100 for issuance of the Authorization to Test to first-time applicants and \$50 for issuance of the Authorization to Test to repeat applicants.

(b) Commencing July 1, 2016, the application fee for issuance of a certified public accountant certificate shall be \$250.

(c) Commencing July 1, 2016, the application for registration as a partnership or as a corporation, including registration under a new name as a partnership or as a corporation, shall be \$150.

(d) Commencing July 1, 2016, the fee for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be \$120.

(e) For licenses expiring after June 30, 2016, the fee for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be \$120.

(f) The fee for the processing and issuance of a duplicate copy of a certificate of licensure or registration shall be \$10.

(g) The fee for processing and issuance of a duplicate copy of a registration, or permit or other form evidencing licensure or renewal of licensure shall be \$2.

(h)(1) The fee for submission of a Practice Privilege Notification Form pursuant to Business and Professions Code Section 5096 with an authorization to sign attest reports shall be \$100.

(2) The fee for submission of a Practice Privilege Notification Form pursuant to Business and Professions Code Section 5096 without an authorization to sign attest reports shall be \$50.

(3) This subsection shall be inoperative until January 1, 2019.

(i) (1) The fee to be charged a licensee for submission of an application for a license in a retired status pursuant to Section 15.1 shall be \$75.

(2) The fee to restore a license from a retired status to an active status shall be \$50.

(j) By May 31, 2015, the Board shall conduct a review of its actual and estimated costs. Based on this review, the Board shall determine the appropriate level of fees for the initial permit to practice pursuant to subsection (d) and renewal of the permit to practice pursuant to subsection

(e) in order to maintain the Board's contingent fund reserve balance at an amount equal to approximately three months of estimated annual authorized expenditures. If the Board determines that fees of less than \$120 are indicated, the Board shall fix the fees by regulation at the indicated amounts by July 1, 2016.

Note: Authority cited: Sections 5010 and 5134, Business and Professions Code. Reference: Sections 122, 163, 5070.1, 5096 and 5134, Business and Professions Code.

#### **§ 71. Abandonment of the Application.**

(a) An applicant for the paper and pencil examination who fails to appear for the examination shall be deemed to have abandoned the application and shall forfeit the examination fee.

(b) A first-time applicant for an Authorization to Test pursuant to Section 8.1 shall be deemed to have abandoned the application and shall forfeit any application fee if the applicant fails to complete the application within one year of notification by the Board of any deficiency in the application.

(c) An application for a certificate, permit, registration, or license, including any application for renewal or retired status, shall be deemed abandoned and any application fee shall be forfeited, if the applicant fails to complete the application within two years of its original submission or within one year of notification by the Board of any deficiency in the application.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5010, 5070.1 and 5134, Business and Professions Code.

#### **§ 75.1. Citation of Rules. [Repealed]**

Note: Authority cited: Sections 5010, 5011, and 5018, Business and Professions Code.

#### **§ 75.2. Definitions. [Repealed]**

#### **§ 75.3. Professional Relationships, Responsibilities, and Conduct Not Affected. [Repealed]**

### **Article 11. Accountancy Corporation Rules**

#### **§ 75.4. Office for Filing.**

All applications for a Certificate of Registration and any other documents or reports required by these rules or by law to be filed with the board shall be filed with the principal office of the board in Sacramento.

Note: Authority cited: Sections 5010 and 5157, Business and Professions Code. Reference: Sections 5150 and 5151, Business and Professions Code.

#### **§ 75.5. Application; Review of Refusal to Approve.**

(a) An applicant corporation shall file with the board an application for Certificate of Registration on a form furnished by the board, which shall be signed and verified by an officer of the corporation who is a licensed person and be accompanied by a fee established pursuant to Rule 70.

(b) A Certificate of Registration shall be issued if the board finds that the applicant corporation has complied with Sections 13401 to 13409, inclusive, of the Corporations Code, Sections 5151 to 5155, inclusive, of the Business and Professions Code, and Sections 75.8 and 75.9 of these Rules.

(c) The board may delegate to its executive officer, or other official or employee of the board, its authority under Section 5151 of the Business and Professions Code, to review and approve applications for registration and to issue Certificates of Registration.

Note: Authority cited: Sections 5010 and 5157, Business and Professions Code. Reference: Sections 5151, 5152, 5154 and 5155, Business and Professions Code.

#### **§ 75.6. Requirements for Issuance of Certificate of Registration. [Repealed]**

#### **§ 75.7. Name of Corporation. [Renumbered]**

Note: Authority cited: Section 5157, Business and Professions Code. Reference: Sections 5055, 5121 and 5153, Business and Professions Code; and Section 13409, Corporations Code.

#### **§ 75.8. Security for Claims Against an Accountancy Corporation.**

a) An accountancy corporation shall provide and maintain adequate security for claims against it by its clients arising out of the rendering of or failure to render professional services. Security for such claims shall consist of either of the following:

(1) Insurance for each claim in an amount equal to at least \$100,000 per licensee, provided that the maximum amount for each claim shall not be required to exceed \$1,000,000, and that the minimum amount guaranteed for all claims during any one calendar year shall be at least an amount equal to \$250,000 per licensee, provided that the maximum amount shall not be required to exceed \$3,000,000; or

(2) A written agreement of the shareholders that they shall jointly and severally guarantee payment by the corporation of liabilities to its clients arising out of the rendering of a failure to render professional services.

(b) In the event of failure to comply with the requirements of this section, each and every shareholder of the corporation shall be deemed to have agreed to be jointly and severally liable for claims against the corporation by its clients arising out of the rendering of, or failure to render, professional services.

Note: Authority cited: Sections 5010 and 5157, Business and Professions Code. Reference: Section 5157, Business and Professions Code.

#### **§ 75.9. Shares: Ownership and Transfer.**

(a) Except as provided in subsection (b), the restrictions prescribed by Sections 13406 and 13407 of the Corporations Code shall be clearly set forth on each share certificate and in corporate by-laws, or the corporate by-laws and the share certificates of an accountancy corporation shall contain an appropriate passage or legend referring to the restrictions set forth in Sections 13406 and 13407 of the Corporations Code.

(b) For an accountancy corporation which has nonlicensee owners, the conditions and restrictions on nonlicensee ownership specified in Section 5079 of the Accountancy Act shall be clearly set forth on each share certificate issued to a nonlicensee and in the corporate by-laws of the accountancy corporation.

Note: Authority cited: Sections 5010, 5079 and 5157, Business and Professions Code. Reference: Sections 5079, 5151 and 5154, Business and Professions Code; and Sections 13403, 13406, 13407, 13408 and 13410, Corporations Code.

#### **§ 75.10. Resident Manager in Charge of Branch Offices. [Repealed]**

**§ 75.11. Certificate of Registration; Continuing Validity; Notification of Name and Address Changes.**

(a) A Certificate of Registration shall continue in effect until it is cancelled, suspended, or revoked. Such certificate may be cancelled for failure to renew as stated in Business and Professions Code Section 5070.7. Such certificate may be suspended or revoked for any of the grounds outlined in Section 13408 of the Corporations Code.

(b) Each accountancy corporation shall report to the board any and all changes of address, corporate name and shareholders within 30 days of any such change, giving both its old and its new address or names.

Note: Authority cited: Sections 5010 and 5157, Business and Professions Code. Reference: Sections 5070.7, 5152 and 5152.1, Business and Professions Code; and Section 13408, Corporations Code.

**Article 12. Continuing Education Rules**

**§ 80. Inactive License Status.**

(a) Upon application, a licensee may have his/her license placed in an inactive status.

(b) The holder of a license in an inactive status shall not engage in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code. This section does not prohibit a holder of a license in an inactive status from receiving a share of the net profits from a public accounting firm or other compensation from a public accounting firm, provided that the licensee does not otherwise engage in the practice of public accountancy.

(c) A license in an inactive status shall be renewed during the same time period in which a license in an active status is renewed. The renewal fee for a license in an inactive status shall be the same as the renewal fee for a license in an active status.

(d) The continuing education requirements described in Section 87 are not applicable at the time of renewal for a licensee renewing a license in an inactive status.

(e) At the time of renewal, the holder of a license in an inactive status may convert his/her license to an active status by paying the renewal fee and complying with the continuing education requirements as described in Section 87, with the exception of Section 87(a)(1). A minimum of 20 hours of continuing education shall be completed in the one-year period immediately preceding the time of renewal, 12 hours of which must be in technical subject areas described in Section 87(a)(2).

(f) The holder of a license in an inactive status may convert to an active status prior to the next renewal by meeting the continuing education requirements as described in Section 80.1.

Note: Authority cited: Sections 462 and 5010, Business and Professions Code. Reference: Section 462, Business and Professions Code.

**§ 80.1. Conversion or Restoration to Active Status Prior to Renewal.**

(a) A licensee who has a license in an inactive or retired status may convert, or restore, the license to an active status prior to the next license expiration date by performing the following:

(1) Within the 24-month period prior to converting, or restoring, to an active status, complete 80 hours of continuing education credit as described in Section 87(a)(2) and (a)(3), including the Ethics Continuing Education Requirement described in Section 87(b). A minimum of 20 hours shall be completed in the one-year period immediately preceding conversion, or restoration, to an active status, with a minimum of 12 hours of the 20 required hours in technical subject areas described in Section 87(a)(2);

(2) Complete the regulatory review course described in Section 87.8 if more than six years have elapsed since the licensee last completed the course;

- (3) Apply to the Board in writing requesting to convert the license to an active status; and
- (4) Complete any continuing education that is required pursuant to subsection (k) of Section 89.
- (b) A licensee with a license in an inactive or retired status may not practice public accountancy until the Board approves the application for conversion, or restoration, of the license to an active status.
- (c) A licensee who, during the 24 months prior to converting, or restoring, his/her license to an active status, planned, directed, or conducted substantial portions of field work, or reported on financial or compliance audits of a governmental agency shall complete 24 hours of continuing education in governmental auditing as described in Section 87(c) as part of the 80 hours of continuing education required to convert his/her license to an active status under subsection (a). A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (d).
- (d) A licensee who, during the 24 months prior to converting, or restoring, his/her license to an active status, planned, directed, or performed substantial portions of the work or reported on an audit, review, compilation, or attestation service shall complete 24 hours of continuing education in accounting and auditing as described in Section 87(d) as part of the 80 hours of continuing education required to convert his/her license to an active status under subsection (a).
- (e) A licensee who, during the 24 months prior to converting, or restoring, his/her license to an active status provided preparation engagements as his/her highest level of service shall complete eight hours of continuing education in courses described in Section 87(e) as part of the 80 hours of continuing education required to convert his/her license to an active status under subsection (a).
- (f) A licensee who must complete continuing education pursuant to subsections (c), (d), or (e) shall also complete an additional four hours of continuing education specifically related to the prevention, detection, and/or reporting of fraud affecting financial statements as described in Section 87(f). This continuing education shall be part of the 80 hours of continuing education required by subsection (a), but shall not be part of the continuing education required by subsections (c), (d), or (e).

Note: Authority cited: Sections 462, 5010, 5027 and 5070.1, Business and Professions Code.  
Reference: Sections 462, 5027, 5028 and 5070.1, Business and Professions Code.

### **§ 80.2. Continuing Education Requirements Following Conversion or Restoration to Active Status During the Renewal Period.**

- (a) All continuing education required by this section must be completed on or after the date of conversion, or restoration, to active status.
- (b) Once a license is converted, or restored, to an active status, the licensee must complete 20 hours of continuing education as described in Section 87(a)(2) and (a)(3) for each full six month period from the date of license status conversion to the next license expiration date in order to fulfill the continuing education requirement for license renewal. If the time period between the date of license status conversion and the next license expiration date is less than six full months, no continuing education is required for license renewal.
- (c) Once a license is converted, or restored, to an active status, a licensee who engages in financial or compliance auditing of a governmental agency at any time between the date of license status conversion, or restoration, and the next license expiration date shall complete six hours of governmental auditing continuing education as part of each 20 hours of continuing education required under subsection (b). Continuing education in the areas of governmental accounting and auditing shall meet the requirements of Section 87(c). A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (d).



(d) Once a license is converted, or restored, to an active status, a licensee who engages in audit, review, compilation, or attestation services at any time between the date of license status conversion, or restoration, and the license expiration date shall complete six hours of continuing education in accounting and auditing as part of each 20 hours of continuing education required under subsection (b). Continuing education in the areas of accounting and auditing shall meet the requirements of Section 87(d).

(e) Once a license is converted, or restored, to an active status, a licensee who provides preparation engagements as his/her highest level of service at any time between the date of license status conversion, or restoration, and the next license expiration date shall complete a minimum of two hours of continuing education in courses described in Section 87(e) as part of each 20 hours of continuing education required under subsection (b).

(f) If a license expired as defined in Section 81(b)(2) after the expiration date immediately following conversion to active status, the licensee must complete an additional 20 hours of continuing education as described in Section 87(a)(2) and (a)(3) for each full six month period from the date of license expiration to the date on which the licensee applies for license renewal, up to a total of 80 hours of continuing education in order to renew. If the time period between the date the license expired and the date on which the licensee applies for license renewal is less than six full months, no additional continuing education is required for license renewal.

(1) All continuing education required by this section shall be completed in the two-year period immediately preceding the date on which the licensee applies for license renewal. If the date the licensee applies for license renewal is less than two years from the date of license status conversion, all continuing education must be completed on or after the date of license status conversion.

(2) A licensee who is required to complete a total of 80 hours of continuing education pursuant to this subsection shall also complete, as a part of the 80 hours, the following:

(A) Four hours of ethics education pursuant to Section 87(b).

(B) If the licensee is subject to the continuing education requirements of subsection (c), (d), or (e), four hours of continuing education specifically related to the prevention, detection, and/or reporting of fraud affecting financial statements. This continuing education shall not be part of the continuing education required by subsection (c), (d), or (e).

(g) Failure to Comply.

A licensee's willful failure to comply with the requirements of this section shall constitute cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act.

Note: Authority cited: Sections 462, 5010, 5027 and 5070.1, Business and Professions Code.

Reference: Sections 462, 5027, 5028 and 5070.1, Business and Professions Code.

### **§ 81. Continuing Education Requirements for Renewing an Expired License.**

(a) As a condition for renewing a license in an active status, a licensee renewing an expired license shall adhere to the basic requirements described in Section 87 in the two-year period immediately preceding the date on which the licensee applies for license renewal. No carryover of continuing education is permitted from one license renewal period to another.

(b) For the purpose of this section, the following definitions shall apply:

(1) "Date on which the licensee applies for license renewal" shall mean the date the license application, including the applicable renewal and delinquency fee, is postmarked on the envelope.

(2) "Expired" shall mean delinquent, lapsed, or a late renewal that is postmarked after the licensee's last or most recent license expiration date, up to five years.

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Sections 5026, 5027, 5028 and 5051, Business and Professions Code.

**§ 85. Citation of Rules and Purpose. [Repealed]**

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 5026-5029, 5070.5, 5070.6, Business and Professions Code.

**§ 86. Effective Date. [Repealed]**

**§ 87. Basic Requirements.**

(a) 80 Hours. As a condition for renewing a license in an active status, a licensee shall complete at least 80 hours of continuing education in the two-year period immediately preceding license expiration, and meet the reporting requirements described in Section 89(a). A licensee engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code is required to hold a license in an active status. No carryover of continuing education is permitted from one license renewal period to another.

(1) A licensee renewing a license in an active status, shall complete a minimum of 20 hours in each year of the two-year license renewal period, with a minimum of 12 hours of the required 20 hours in technical subject areas as described in subsection (a)(2).

(2) Licensees shall complete a minimum of 50 percent of the required continuing education hours in the following technical subject areas: accounting, auditing, fraud, taxation, consulting, financial planning, ethics as defined in subsection (b), regulatory review as defined in Section 87.8, computer and information technology (except for word processing), and specialized industry or government practices that focus primarily upon the maintenance and/or enhancement of the public accounting skills and knowledge needed to competently practice public accounting.

(3) Licensees may claim no more than 50 percent of the required number of continuing education hours in the following non-technical subject areas: communication skills, word processing, sales, marketing, motivational techniques, negotiation skills, office management, practice management, and personnel management.

(4) Programs in the following subject areas are not acceptable continuing education: personal growth, self-realization, spirituality, personal health and/or fitness, sports and recreation, foreign languages and cultures and other subjects which will not contribute directly to the professional competence of the licensee.

**(b) Ethics Continuing Education Requirement**

A licensee renewing a license in an active status shall complete four hours of the 80 hours of continuing education required pursuant to subsection (a) in an ethics course. The course subject matter shall consist of one or more of the following areas: a review of nationally recognized codes of conduct emphasizing how the codes relate to professional responsibilities; case-based instruction focusing on real-life situational learning; ethical dilemmas facing the accounting profession; or business ethics, ethical sensitivity, and consumer expectations. Programs in the following subject areas are not acceptable toward meeting this requirement: sexual harassment, workplace harassment, or workplace violence. Courses must be a minimum of one hour as described in Section 88.2.

**(c) Government Auditing Continuing Education Requirement.**

A licensee who engages in planning, directing, conducting substantial portions of field work, or reporting on financial or compliance audits of a governmental agency shall complete 24 hours of the 80 hours required pursuant to subsection (a) in the areas of governmental accounting, auditing or related subjects. This continuing education shall be completed in the same two-year

license renewal period as the report is issued. A governmental agency is defined as any department, office, commission, authority, board, government-owned corporation, or other independent establishment of any branch of federal, state or local government. Related subjects are those which maintain or enhance the licensee's knowledge of governmental operations, laws, regulations or reports; any special requirements of governmental agencies; subjects related to the specific or unique environment in which the audited entity operates; and other auditing subjects which may be appropriate to government auditing engagements. A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (d).

**(d) Accounting and Auditing Continuing Education Requirement.**

A licensee who engages in planning, directing, performing substantial portions of the work, or reporting on an audit, review, compilation, or attestation service, shall complete 24 hours of the 80 hours of continuing education required pursuant to subsection (a) in the course subject matter pertaining to financial statement preparation and/or reporting (whether such statements are prepared on the basis of generally accepted accounting principles or other comprehensive bases of accounting), auditing, reviews, compilations, industry accounting, attestation services, or assurance services. This continuing education shall be completed in the same two-year license renewal period as the report is issued.

**(e) Accounting and Auditing Continuing Education Requirement When Providing Preparation Engagements as Highest Level of Service.**

A licensee who provided preparation engagements as his/her highest level of service shall complete eight hours of the 80 hours of continuing education required pursuant to subsection (a) in preparation engagements or accounting and auditing as described in Section 87(d).

**(f)** A licensee who must complete continuing education pursuant to subsections (c), (d), or (e) of this section shall also complete an additional four hours of continuing education specifically related to the prevention, detection, and/or reporting of fraud affecting financial statements. This continuing education shall be part of the 80 hours of continuing education required by subsection (a), but shall not be part of the continuing education required by subsections (c), (d), or (e).

**(g) Failure to Comply.**

A licensee's willful failure to comply with the requirements of this section shall constitute cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act.

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Sections 5026, 5027, 5028 and 5051, Business and Professions Code.

**§ 87.1. Continuing Education Requirements for New Licensees.**

**(a)** All continuing education must be completed on or after the date the initial license was issued.

**(b)** Once a license is issued, the licensee must complete 20 hours of continuing education as described in Section 87(a)(2) and (a)(3) for each full six month period from the date the initial license was issued to the first license expiration date in order to fulfill the continuing education requirement for license renewal. If the time period between the date the initial license was issued and the first license expiration date is less than six full months, no continuing education is required for license renewal.

**(c)** A licensee who is required to complete a total of 80 hours of continuing education pursuant to subsection (b) shall also complete four hours of ethics education pursuant to Section 87(b).

**(d)** Once a license is issued, a licensee who engages in financial or compliance auditing of a governmental agency at any time between the date the initial license was issued and the first license expiration date shall complete six hours of governmental auditing continuing education as part of each 20 hours of continuing education required under subsection (b). Continuing education in the areas of governmental accounting and auditing shall meet the requirements of

Section 87(c). A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (e).

(e) Once a license is issued, a licensee who engages in audit, review, compilation, or attestation services at any time between the date the initial license was issued and the first license expiration date shall complete six hours of continuing education in accounting and auditing as part of each 20 hours of continuing education required under subsection (b). Continuing education in the areas of accounting and auditing shall meet the requirements of Section 87(d).

(f) Once a license is issued, a licensee who provided preparation engagements as his/her highest level of service at any time between the date the initial license was issued and the first license expiration date shall complete a minimum of two hours of continuing education in courses described in Section 87(e) as part of each 20 hours of continuing education required under subsection (b).

(g) A licensee who is required to complete a total of 80 hours of continuing education pursuant to this section and must complete continuing education pursuant to subsection (d), (e), or (f) shall also complete an additional four hours of continuing education specifically related to the prevention, detection, and/or reporting of fraud affecting financial statements. This continuing education shall be part of the total hours of continuing education required by this section, but shall not be part of the continuing education required by subsection (d), (e), or (f).

(h) If an initial license expires as defined in Section 81(b)(2), the licensee must complete an additional 20 hours of continuing education as described in Section 87(a)(2) and (a)(3) for each full six month period from the date of license expiration to the date on which the licensee applies for license renewal, up to a total of 80 hours of continuing education. If the time period between the date the license expired and the date on which the licensee applies for license renewal is less than six full months, no additional continuing education is required for license renewal.

(i) All continuing education required by this section shall be completed in the two-year period immediately preceding the date on which the licensee applies for license renewal. If the date on which the licensee applies for license renewal is less than two years from the date the initial license was issued, all continuing education must be completed on or after the date the initial license was issued.

(j) Failure to Comply.

A licensee's willful failure to comply with the requirements of this section shall constitute cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act.

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Section 5028, Business and Professions Code.

### **§ 87.2. Reentry into Public Practice. [Repealed]**

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Section 5028, Business and Professions Code.

### **§ 87.5. Additional Continuing Education Requirements.**

(a) Following an investigation or hearing conducted pursuant to Business and Professions Code Section 5103 the Board or its designee may order a licensee to:

(1) Complete one or more hours of continuing education not to exceed 80 hours in addition to the 80 hours qualifying continuing education required by Section 87, subsection (a), prior to permit renewal, which will contribute to the licensee's professional competence.

(2) Complete one or more of the 80 hours of qualifying continuing education required by Section 87, subsection (a), or one or more of the hours ordered pursuant to subsection (a)(1) of this

section, in a designated course of study which will contribute to the licensee's professional competence.

(3) Complete one or more of the 80 hours of qualifying continuing education required by Section 87, subsection (a), or one or more hours ordered pursuant to this section, by a specified date. Such date may be extended by the Board or its designee.

(b) Failure of a licensee to comply with an order by the Board or its designee made pursuant to this section constitutes cause for disciplinary action under Section 5100 of the Business and Professions Code.

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Sections 5026, 5027, 5028 and 5103, Business and Professions Code.

#### **§ 87.6. Records Review Continuing Education Requirements. [Repealed]**

Note: Authority cited: Section 5027, Business and Professions Code. Reference: Sections 5024, 5026, 5027 and 5028, Business and Professions Code.

#### **§ 87.7. Continuing Education in the Accountancy Act, Board Regulations, and Other Rules of Professional Conduct. [Repealed]**

#### **§ 87.8. Regulatory Review Course.**

(a) In order to renew a license in an active status, a licensee shall, within the six years preceding the license expiration date, complete a continuing education course on the provisions of the California Accountancy Act and the California Board of Accountancy Regulations specific to the practice of public accountancy in California emphasizing the provisions applicable to current practice situations. The course also will include an overview of historic and recent disciplinary actions taken by the Board, highlighting the misconduct which led to licensees being disciplined. The course shall be a minimum of two hours, and a licensee shall select from a list of Board-approved courses. The two hours can be counted towards the 80 hours required pursuant to Section 87.

(b) A licensee shall report completion of the Regulatory Review course at the time of renewal.

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Section 5027, Business and Professions Code.

#### **§ 87.9. Offering a Regulatory Review Course.**

(a) Prior to offering a regulatory review course which can be claimed by a licensee to fulfill Section 87.8, course providers shall apply to the Board for approval of the course by completing Initial Application Package CE-RR-1 (07/09), Regulatory Review Application for Course Approval, which is hereby incorporated by reference. Approval shall be based on the following criteria:

(1) The course shall be a formal educational program that meets the requirements described in Sections 88, 88.1, and 88.2, excluding Section 88.2(c)(1)(A) and (c)(1)(B).

(2) The course shall provide participants with the current California Accountancy Act and California Board of Accountancy Regulations.

(3) A self-study course shall require a 90 percent passing score on a test given at the conclusion of the course. The test shall not include true/false type questions. The test shall be submitted along with the course materials for approval.

(4) A self-study course is required to demonstrate an average completion time of two 50-minute continuing education hours by pre-testing the documentation from a minimum of four current

and active certified public accountants simulating the manner in which the course will be completed and showing the length of time spent by each participant to complete the course. Pre-testing participants are required to be independent of the group that developed and/or are offering the course and provide feedback on the level of difficulty of the course.

(5) If the course is a component of a larger program, the two hours devoted to the regulatory review course must be continuous and uninterrupted.

(6) The course content shall include the following:

(A) A review of the current California Accountancy Act, specific to the practice of public accountancy in California, and shall include a review of the following California Accountancy Act Articles: Articles 1.5, 3, 3.5, 4, 5.5, 6, 6.5 and 7.

(B) A review of the current California Board of Accountancy Regulations, specific to the practice of public accountancy in California, and shall include a review of the following Accountancy Regulations Articles: Articles 1, 6, 9, 12, 12.5, and 13.

(C) The review of the California Accountancy Act and California Board of Accountancy Regulations must include a discussion on how the specified articles relate to the practice of public accountancy in California, including a review of historic and recent disciplinary actions taken by the Board, highlighting the misconduct which led to licensees being disciplined.

(b) The term of the approval shall be for a two-year period. In order to maintain Board approval, providers shall submit Renewal Application Package CE-RR-2 (11/17), Regulatory Review Approval Continuance Application, which is hereby incorporated by reference, prior to the end of the two-year period.

(c) Upon receiving approval from the Board, the provider of the Regulatory Review course required under Section 87.8 may represent the course in promotional materials during the term of approval, as being approved by the Board.

(d) The Board may review the records of a provider to ensure compliance with the criteria specified in this Section. Within 15 days of receipt of written notification, the provider shall submit or make available all material requested by the Board. The Board may cancel its approval for a course found not to be in compliance.

(e) For every course presentation, the provider that enters into the approval agreement with the Board shall:

(1) Retain completion records to reflect the actual participant attendance, or in the case of a self-study course, passing test scores of 90 percent or higher. The retention period shall be eight years.

(2) Be responsible for the quality and content of the course by requiring and ensuring that the course include all components and content areas represented in the approval application.

(3) Update course content to reflect current laws, regulations, and enforcement violations.

(f) A provider whose course is denied approval or when a previous approval is canceled by Board staff may appeal such action to the Board. The appeal shall be filed within six months of the action being appealed or the mailing of written notification, whichever is later. The appeal shall contain the following information:

(1) The name and business address of the provider making the appeal.

(2) The action being appealed and the date of any written notification from the Board.

(3) A summary of the basis for the appeal, including any information which the provider believes was not given adequate consideration by staff.

(g) The Board will consider only appeals based on information previously considered by staff. If the provider wishes to submit for consideration additional evidence or information not previously submitted to staff, such additional information should be submitted directly to staff with the request that its previous action be reconsidered. An appeal based on evidence or information not previously submitted to staff will be referred by the Board to staff for further consideration.

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Section 5027, Business and Professions Code.

**§ 88. Programs Which Qualify.**

(a) (1) The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of a licensee in public practice. It is the obligation of each licensee to select a course of study, consistent with the requirements of this section and Sections 88.1 and 88.2, which will contribute directly to his/her professional competence.

(2) A formal program of learning is an instructional activity that meets the requirements of this section and Sections 88.1 and 88.2 or a course for which academic credit is granted by a university, college, or other institution of learning accredited by a regional or national accrediting agency.

(b) The following types of live presentation programs are deemed to qualify as acceptable continuing education provided the standards outlined in Section 88(a), Section 88.1, and Section 88.2 are maintained.

(1) Professional development programs of national and state accounting organizations.

(2) Technical session at meetings of national and state accounting organizations and their chapters which are designed as formal educational programs.

(3) University or college courses:

(i) Credit courses -each semester hour credit shall equal 15 hours toward the requirement. Each quarter hour credit shall equal 10 hours.

(ii) Non credit courses -each classroom hour will equal one qualifying hour.

(4) Other formal educational programs provided the program meets the required standards.

(c) Group Internet-Based Programs (Webcast): Programs that enable a licensee to participate from a computer in an interactive course presented by a live instructor at a distant location are qualifying, provided the program is based upon materials specifically developed for instructional use and meets the requirements of Section 88(a), Section 88.1 and Section 88.2. Group viewing of a webcast program is permissible only where a live facilitator logs into the program to ask questions on behalf of the group. The live facilitator shall document and verify group participation and attendance in accordance with the requirements of Section 88.1 and 88.2.

(d) Formal correspondence or other individual study programs are qualifying provided:

(1) The program is based upon materials specifically developed for instructional use,

(2) The program meets the requirements of Section 88(a), Section 88.1, and Section 88.2,

(3) The program is completed within one year from the date of purchase or enrollment, and

(4) The licensee receives a passing score.

(e) Self-study modules for national examinations that contribute to the professional competency of a licensee in public practice, such as the CERTIFIED FINANCIAL PLANNER™ Certification Examination or the Certified Management Accountant examination qualify as acceptable continuing education if the modules meet the requirements of subsection (d).

(f) Credit as an instructor, discussion leader, or speaker shall be allowed for any meeting or program provided that the session is one which meets the continuing education requirements set forth in subsection (a)(1), Section 88.1, and Section 88.2. The credit allowed an instructor, discussion leader, or a speaker shall be on the basis of actual presentation hours, plus up to two additional hours for actual preparation time for each hour taught. The maximum credit for such preparation and teaching shall not exceed 50 percent of the renewal period requirement. For repeat presentations, an instructor shall receive no credit unless the instructor can demonstrate that the program content was substantially changed and that such change required significant

additional study or research. Credit for licensees attending, not as instructors, discussion leader, or speakers, is limited to the actual meeting time.

(g) Credit may be allowed by the Board on an hour-for-hour basis for the following activities:

(1) Writing published articles and books provided the publisher is not under the control of the licensee, and the article and/or book would contribute to his/her professional competence.

(2) Writing instructional materials for any continuing education program which meets the requirements of subsection (a)(1), Section 88.1, and Section 88.2,

(3) Writing questions for the Uniform Certified Public Accountant Examination,

(4) Performing a technical review of instructional materials for any continuing education program which meets the requirements of subsection (a)(1), Section 88.1, and Section 88.2. For the purposes of this section a technical review shall mean reviewing for technical accuracy, currency of the information, and attainment of stated learning objectives.

(h) The maximum credit allowed under subsection (g) shall not exceed 25 percent of the renewal period requirement.

(i) In order for any continuing education hours to be acceptable to the Board under this article, the hours shall be completed in a program which qualifies under this section or Section 87.9.

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Section 5027, Business and Professions Code.

### **§ 88.1. Provider Requirements.**

(a) Live Presentation

In order to qualify as acceptable continuing education under Section 88(b) the provider of a live presentation program must:

(1) Require attendance and retain for a period of five years a record of attendance that accurately assigns the appropriate number of contact hours for participants including those who arrive late or leave early.

(2) Retain for a period of five years written educational goals and specific learning objectives, as well as a syllabus, which provides a general outline, instructional objectives, and a summary of topics for the course. A copy of the educational goals, learning objectives, and course syllabus shall be made available to the California Board of Accountancy upon request.

(3) Issue a certificate of completion, with verification certified by a program provider representative such as a signature or seal, to each licensee upon satisfactory completion of the course and retain records of licensees receiving certificates of completion for a period of five years. The amount of credit reflected on the certificate of completion shall be calculated in accordance with Section 88.2(a). The certificate of completion must delineate the subject areas, as described in Section 87(a)(2) and (3), for which the licensee may claim credit.

(b) Group Internet-Based Programs (Webcast)

In order to qualify as acceptable continuing education under Section 88(c), the provider of a Group Internet-Based Program (Webcast) must:

(1) Require and monitor attendance throughout the program by using attendance monitoring devices such as polling, questions, or surveys. The program shall include a minimum of three monitoring events each hour, at least one of which occurs at an irregular interval.

(2) Have a live instructor while the program is being presented and a feature allowing participants to send questions/comments directly to the instructor and receive answers during the program.

(3) If it is recorded or archived, have a live subject matter expert facilitate the program (webcast) to answer questions. A recorded or archived program that does not have a live subject matter expert must meet the self-study requirements of subsection (c), Section 88, and Section 88.2(c).



(4) Retain for a period of five years a record of attendance that accurately assigns the appropriate number of participation hours for participants.

(5) Retain for a period of five years written educational goals and specific learning objectives, as well as a syllabus, which provides a general outline, instructional objectives, and a summary of topics for the course. A copy of the educational goals, learning objectives, and course syllabus shall be made available to the California Board of Accountancy upon request.

(6) Issue a certificate of completion, with verification certified by a program provider representative such as a signature or seal, to each licensee upon satisfactory completion of the course. Satisfactory completion shall at a minimum require responding to at least 75 percent of the monitoring events described in subsection (b)(1) during the period for which continuing education credit is being granted. Retain records of licensees receiving certificates of completion for a period of five years. The amount of credit shall be displayed on the certificate of completion and shall be calculated in accordance with Section 88.2(b). The certificate of completion must delineate the subject areas, as described in Section 87(a)(2) and (3), for which the licensee may claim credit.

(7) Have a written policy to address rescheduling and the granting of partial credit in the event of a technology failure, and make that policy available to the Board upon request.

(c) Self-Study

In order to qualify as acceptable continuing education under Section 88(d) the provider of a self-study course must:

(1) Retain for a period of five years written educational goals and specific learning objectives, as well as a syllabus, which provides a general outline, instructional objectives, and a summary of topics for the course. A copy of the educational goals, learning objectives, and course syllabus shall be made available to the California Board of Accountancy upon request.

(2) Issue a certificate of completion, with verification certified by a program provider representative such as a signature or seal, to each licensee upon satisfactory completion of the course and retain records of licensees receiving certificates of completion for a period of five years. The amount of credit shall be displayed on the certificate of completion and shall be calculated in accordance with Section 88.2(c). The certificate of completion must delineate the subject areas, as described in Section 87(a)(2) and (3), for which the licensee may claim credit.

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Sections 5026 and 5027, Business and Professions Code.

**§ 88.2. Program Measurements.**

(a) Live Presentation

In order to qualify as acceptable continuing education under Section 88(b) a live presentation program must:

(1) Be measured in 50-minute class hours. A program must be at least one 50-minute class hour in length to be acceptable continuing education. For a program composed of several segments in which individual segments are less than 50 minutes, the sum of the segments, in increments not less than 25 minutes, may be added together to equal a full 50-minute class hour. For a program that is longer than one 50-minute class hour, credit shall be granted for additional 25-minute segments (one-half of a 50-minute class hour). Only class hours or the equivalent (and not participant hours devoted to preparation or study time) will be used to measure the hours of continuing education.

(2) Any program designed pursuant to Section 87(b) must be a minimum of one 50-minute class hour. Should a course be comprised of multiple subject areas as described in Section 87(a)(2), those components specific to Section 87(b) must be a minimum of one 50-minute class hour.

(3) Meet the provider requirements for live presentation under Section 88.1(a).

(b) Group Internet-Based Program (Webcast)

In order to qualify as acceptable continuing education under Section 88(c), a Group Internet-Based Program (Webcast) must:

(1) Be measured by actual program length in 50-minute class hours. A program must be a minimum of one 50-minute class hour in length to be acceptable continuing education. For a program composed of several segments, the sum of the segments, in increments not less than 25 minutes, may be added together to equal a full 50-minute class hour. For a program that is longer than one 50-minute class hour, credit shall be granted for additional 25-minute segments (one-half of a 50-minute class hour). Only class hours or the equivalent (and not participant hours devoted to preparation or study time) will be used to measure the hours of continuing education.

(2) Any program designed pursuant to Section 87(b) must be a minimum of one 50-minute class hour. Should a program be comprised of multiple subject areas as described in Section 87(a)(2), those components specific to Section 87(b) must be a minimum of one 50-minute class hour.

(3) Meet the provider requirements for Group Internet-Based Program (Webcast) under Section 88.1(b).

(c) Self-Study

In order to qualify as acceptable continuing education under Section 88(d), a self-study course, whether in electronic or paper text format, must:

(1) Grant continuing education credit calculated using one of the following methods:

(A) Demonstrating an average completion time, measured in 50-minute continuing education hours, by pre-testing the documentation from a minimum of three current and active certified public accountants simulating the manner in which the course will be completed and showing the length of time spent by each participant to complete the course. Pre-testing participants are required to be independent of the group that developed and/or are offering the course and provide feedback on the level of difficulty of the course. The continuing education credit shall be rounded down to the nearest one-half hour credit when the total minutes of the program are not equally divisible by 50.

(B) Demonstrating an average completion time, measured in 50-minute continuing education hours, by dividing the number of words contained in the text of the required reading (excluding any material not critical to the achievement of the stated learning objectives such as the course introduction, author biography, instructions, table of contents, and supplementary reference materials) by 180, adding the actual length of time in minutes of any audio or video segments, adding the number of review questions, exercises, and final examination questions multiplied by 1.85, and dividing the total by 50. The continuing education credit shall be rounded down to the nearest one-half hour credit when the total minutes of the program are not equally divisible by 50.

(2) Clearly define lesson objectives and manage the participant through the learning process by requiring frequent participant response to questions that test for understanding of the material presented, providing evaluated feedback to incorrectly answered questions and reinforcement feedback to correctly answered questions. For purposes of this section, evaluated feedback means a response specific to each incorrect answer to the study questions that explains why the particular answer is wrong, as each one is likely to be wrong for a different reason. For purposes of this section, reinforcement feedback means a response to the correct answer of the study questions that restates and explains why the answer selected was correct.

(3) Any program designed pursuant to Section 87(b) must be a minimum of one class hour.

Should a program be comprised of multiple subject areas as described in Section 87(a)(2), those components specific to Section 87(b) must be a minimum of one 50-minute class hour.

(4) Require a passing score on a test given at the conclusion of the course. The test shall not include true/false type questions.

(5) Meet the provider requirements for self-study under Section 88.1(c).

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Sections 5026 and 5027, Business and Professions Code.

**§ 89. Control and Reporting.**

(a) Upon renewal, a licensee who is required, pursuant to Section 80.2, 81, 87, or 87.1, to obtain continuing education must provide a written statement, signed under penalty of perjury, certifying that the requisite number of continuing education hours has been obtained. The licensee shall disclose the following information concerning courses or programs claimed as qualifying continuing education hours:

(1) Course title or description

(2) Date of completion

(3) Name of school, firm or organization providing the course or program

(4) Method of study, i.e., whether course or program is self-study, live presentation or Group Internet-Based Program (Webcast)

(5) Number of hours earned.

(6) Subject areas as described in Section 87(a)(2) and (3).

(b) If credit is claimed for completing the two hour regulatory review course specified in Section 87.8, a licensee shall obtain and retain for six years after renewal of his/her license, a certificate of completion or its equivalent disclosing the following information:

(1) Name of licensee

(2) Course title

(3) Board-issued approval number for the regulatory review course completed by the licensee

(4) School, firm or organization providing the course

(5) Date of completion

(6) Verification by a program provider representative, such as a signature or seal.

(c) If continuing education credit for attending a continuing education course is claimed, the licensee shall obtain and retain for four years after renewal a certificate of completion or its equivalent disclosing the following information:

(1) Name of licensee in attendance

(2) School, firm or organization conducting course

(3) Location of course attended

(4) Title of course or description of content

(5) Dates of attendance except when the licensee attended a course for academic credit given by a college, university, or other institution of higher learning accredited by an association recognized by the Secretary of the United States Department of Education, in which case the applicant may provide evidence of a grade of pass or "credit" to satisfy this requirement.

(6) Number of hours of actual attendance except when the licensee attended a course for academic credit given by a college, university, or other institution of higher learning accredited by an association recognized by the Secretary of the United States Department of Education, in which case the applicant may provide evidence of a grade of pass or "credit" to satisfy this requirement.

(7) Verification by a program provider representative, such as a signature or seal.

(8) Subject areas as described in Section 87(a)(2) and (3).

(d) If continuing education credit is claimed for completing a self-study course, the licensee shall obtain and retain for four years after renewal a receipt or its equivalent documenting the date of

purchase or enrollment and a certificate of completion or its equivalent disclosing the following information:

- (1) Name of licensee taking the course
  - (2) School, firm, or organization providing the course
  - (3) Title of course or description of contents
  - (4) Date of completion
  - (5) Number of hours of continued education credit granted for completing the course.
  - (6) Subject areas as described in Section 87(a)(2) and (3).
- (e) If credit as an instructor, discussion leader, or speaker is claimed, the licensee shall retain for four years after renewal the following information:
- (1) School, firm or organization providing course
  - (2) Location of course presented
  - (3) Title of the course or description of content
  - (4) Course outline
  - (5) Dates and evidence of presentation
  - (6) Number of hours of actual preparation time and presentation time.
- (f) If credit is claimed for writing continuing education instructional materials, the following information shall be maintained for four years after renewal:
- (1) Name of the course provider or publisher
  - (2) Title of the course and a description of the instructional materials
  - (3) Date of completion of the instructional materials or publication date
  - (4) A copy of the instructional materials
  - (5) Hours claimed.
- (g) If credit for published articles and books is claimed, the following information shall be maintained for four years after renewal:
- (1) Name and address of publisher
  - (2) Title of publication
  - (3) Brief description
  - (4) Date(s) of publication
  - (5) Copy of publication
  - (6) Hours claimed
- (h) If credit for writing questions for the Uniform CPA Examination is claimed, the licensee shall obtain and retain for four years after renewal a letter or other statement from the American Institute of Certified Public Accountants documenting the licensee's participation and the number of hours of continuing education credit the licensee has received.
- (i) If credit is claimed for performing a technical review of continuing education instructional materials, the following information shall be maintained for four years after renewal:
- (1) Name of the course provider or publisher,
  - (2) Title of the course and a description of the instructional materials,
  - (3) Date the review was completed,
  - (4) A copy of the instructional materials, and
  - (5) Hours claimed.
- (j) The Board may solicit and verify such information. If a licensee is found to have a deficiency, the licensee shall be so notified and shall be required to provide copies of the documentation required by this section.
- (k) A licensee who is determined by the Board at renewal not to have completed the required number of hours of qualifying continuing education shall be required to make up any deficiency. A licensee who is required to make up a deficiency shall be ineligible for active status license renewal or conversion to active status pursuant to Section 80.1 until such time as documentation

to support the required hours of continuing education for license renewal has been submitted and approved by the Board.

(1) A licensee's willful making of any false or misleading statement, in writing, regarding his/her continuing education shall constitute cause for disciplinary action pursuant to section 5100(g) of the Accountancy Act.

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Section 5027, Business and Professions Code.

### **§ 89.1. Reports. [Repealed]**

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5010 and 5018, Business and Professions Code.

### **§ 90. Exceptions and Extensions.**

(a) A renewal applicant may be granted either an extension of time to complete continuing education requirements or an exception from continuing education requirements. Extensions or exceptions may be granted by the Board for the following causes:

- (1) Reasons of health, certified by a medical doctor, which prevent compliance by the licensee;
- (2) Service of the licensee on extended active duty with the Armed Forces of the United States;
- (3) Other good cause.

(b) No extension or exception shall be made solely because of age.

(c) Willful failure of a licensee to complete applicable continuing education within a specified extension of time shall constitute cause for disciplinary action pursuant to section 5100(g) of the Accountancy Act.

(d) A renewal applicant who has met the requirement of Section 87(a) and becomes subject to continuing education pursuant to Section 87(c), (d) or (e) during the last 6 months of a two-year license renewal period shall be granted, upon request, an extension of time of up to 6 months in which to complete the continuing education required by Section 87(c), (d) or (e). Continuing education completed pursuant to this extension shall be part of the 80 hours of continuing education required under Section 87(a) for the next two-year renewal period. However, it shall not be part of the 24 hours of continuing education required under Section 87(c) or (d) or the 8 hours of continuing education required under Section 87(e) for the next two-year renewal period.

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Sections 5028 and 5100(g), Business and Professions Code.

### **§ 91. Reentry, Waiver of Examination and New Licensees. [Repealed]**

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Sections 5026, 5027, 5087, 5134, Business and Professions Code.

### **§ 92. Expired License. [Repealed]**

Note: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Sections 5026, 5027, 5070, 5070.5, 5070.6, 5070.7, 5134, Business and Professions Code.

### **§ 93. Unexpired Licenses.**

Permits issued under these rules expire at 12 midnight on the last day of the birth month of an odd numbered year if the licensee was born in an odd numbered year or of an even numbered year if the licensee was born in an even numbered year. Permit renewal is the responsibility of

the licensee. To renew an unexpired permit, a certificate holder or registrant shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed and give evidence to the board that the continuing education provisions of these regulations have been complied with. Renewal of an unexpired permit shall continue the permit in effect for the two-year renewal cycle ending in the licensee's birth month unless otherwise provided for in these regulations or the California Accountancy Act.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 152.6, 5070.5 and 5134, Business and Professions Code.

#### **§ 94. Failure to Comply.**

Failure to comply with these continuing education rules by a licensee engaged in public practice, as defined in Business and Professions Code Section 5051, constitutes cause for disciplinary action under Section 5100.

Note: Authority cited: Sections 5010, 5018 and 5027, Business and Professions Code. Reference: Sections 5026 and 5100, Business and Professions Code.

#### **Article 12.5. Citations and Fines**

##### **§ 95. Citations.**

(a) The executive officer of the board, in lieu of filing an accusation seeking the suspension or revocation of any permit or certificate or the censure of the holder of any such permit or certificate pursuant to Sections 5100, 5101 and 5156 of the Business and Professions Code, may issue a citation to any person as defined in Section 5035 of the Business and Professions Code who holds a permit or certificate from the board for a violation of any provision of the Accountancy Act or any regulation adopted by the board.

(b) In his or her discretion, the Board's executive officer may issue a citation under this section to a licensee for a violation of a term or condition contained in a decision placing that licensee on probation.

Note: Authority cited: Sections 125.9 and 5010, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

##### **§ 95.1. Citation Format.**

Each citation:

(a) Shall be in writing;

(b) Shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated;

(c) May contain an assessment of an administrative fine, an order of correction or abatement fixing a reasonable period of time for correction or abatement of the violation, or both an administrative fine and an order of correction or abatement;

(d) Shall be served in accordance with the provisions of Section 11505 (c) of the Government Code;

(e) Shall inform the cited person that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 calendar days of the issuance of the citation or assessment.

Note: Authority cited: Sections 125.9, 148 and 5010, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

### **§ 95.2. Fines.**

The amount of the administrative fine assessed by the executive officer pursuant to this article shall not be less than \$100 or more than \$5,000 for each investigation.

Note: Authority cited: Sections 125.9, 148 and 5010, Business and Professions Code. Reference: Sections 125.9, 148 and 5100(g), Business and Professions Code.

### **§ 95.3. Citation Factors.**

In assessing an administrative fine or issuing an order of correction or abatement, the executive officer of the board shall give due consideration to the following factors:

- (a) The gravity of the violation.
- (b) The good or bad faith of the cited person or entity.
- (c) The history of previous violations.
- (d) Evidence that the violation was or was not willful.
- (e) The extent to which the cited person or entity has cooperated with the board's investigation.
- (f) The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation.

Note: Authority cited: Sections 125.9, 148 and 5010, Business and Professions Code. Reference: Sections 125.9, 148 and 5100(g), Business and Professions Code.

### **§ 95.4. Failure to Comply with Citation.**

The failure of a licensee to comply with a citation containing an assessment of administrative fine, an order of correction or abatement or both an administrative fine and an order of correction or abatement after this citation is final and has been served in accordance with the provisions of Section 11505(c) of the Government Code shall constitute a ground for revocation or suspension of the license or permit.

Note: Authority cited: Sections 125.9, 148 and 5010, Business and Professions Code. Reference: Sections 125.9, 148 and 5100(g), Business and Professions Code.

### **§ 95.5. Appeals.**

Any person or entity served with a citation pursuant to this Article and Sections 125.9 and 148 of the Business and Professions Code may contest the citation by appealing to the board in writing within 30 calendar days of the issuance of the citation. The cited person or entity may contest any or all of the following aspects of the citation:

- (a) The occurrence of a violation of the Accountancy Act or a regulation adopted by the board.
- (b) The reasonableness of the order of correction or abatement.
- (c) The period of time allowed for correction in the order of correction or abatement.
- (d) The amount of the administrative fine.

If the cited person or entity fails to notify the Board of his/her/its intent to contest the citation, the citation shall be deemed a final order of the Board and shall not be subject to administrative review.

If a cited person or entity notifies the Board that he/she/it intends to contest a citation, the Board shall afford an opportunity for a hearing. The Board shall thereafter issue a decision, based on findings of fact, affirming, modifying or vacating the citation or penalty or both, or directing other appropriate relief. The proceedings under this Section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code (the California Administrative Procedure Act).

The failure of a cited person or entity who has appealed to the Board to appear at the time and place of the hearing shall be deemed a withdrawal of his, her or its appeal, and the citation shall constitute a final order of the Board and shall not be subject to administrative review.

Note: Authority cited: Sections 125.9, 148 and 5010, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

#### **§ 95.6. Unlicensed, Unregulated Practice.**

The executive officer of the board may issue citations, in accordance with Section 125.9 and 148 of the Business and Professions Code, against any person defined in Business and Professions Code Section 5035 who is acting in the capacity of a licensee under the jurisdiction of the Board. Each citation may contain an assessment of an administrative fine, an order of abatement fixing a reasonable period of time for abatement of the violation, or both an administrative fine and an order of abatement. Administrative fines shall be in a range from \$100 to \$5,000 for each investigation. Any sanction authorized for activity under this section shall be separate from and in addition to any other civil or criminal remedies.

Note: Authority cited: Sections 125.9, 148 and 5010, Business and Professions Code. Reference: Sections 125.9, 148, 5050 and 5051, Business and Professions Code.

#### **§ 98. Disciplinary Guidelines.**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the disciplinary guidelines entitled “Disciplinary Guidelines and Model Orders” (10th edition, 2019), which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation, for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Note: Authority cited: Sections 5010, 5018 and 5116, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 5018, 5096, 5096.5, 5096.12, 5100 and 5116-5116.6, Business and Professions Code; and Section 11425.50(e), Government Code.

### **Article 13. Denial, Suspension, and Revocation of Certificates, Permits, or Licenses**

#### **§ 98.1. Mediation Guidelines.**

The guidelines, entitled “California Board of Accountancy Mediation Guidelines” (July 17, 1998), which are hereby incorporated by reference, constitute the Board’s guidelines for determining whether an enforcement matter under Article 6 of the Accountancy Act is appropriate for referral to mediation and for the procedures and the form of the mediation process.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code. Reference: Sections 5010 and 5018, Business and Professions Code; and Section 11420.10, Government Code.

#### **§ 99. Substantial Relationship Criteria.**

(a) For the purposes of denial, suspension, or revocation of a certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a certified public accountant or public accountant if to a substantial degree it evidences present or potential unfitness of a certified public accountant or



public accountant to perform the functions authorized by his or her certificate or permit in a manner consistent with the public health, safety, or welfare

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of the accounting profession.

(c) For purposes of subdivision (a), a substantially related crime, professional misconduct, or act shall include, but are not limited to, the following:

(1) A crime, professional misconduct, or act that involves dishonesty, fraud, or breach of fiduciary responsibility of any kind;

(2) Fraud or deceit in obtaining a certified public accountant's certificate or a public accountant's permit under Chapter 1, Division III of the Business and Professions Code;

(3) Gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052 of the Business and Professions Code;

(4) A crime or act of professional misconduct that reflects a lack of sound professional or personal judgment relevant to the practice of public accountancy, regardless of whether financial harm occurred to a consumer.

(5) Violation of any of the provisions of Chapter 1, Division III of the Business and Professions Code or willful violation of any rule or regulation of the board.

Note: Authority cited: Sections 481, 5010 and 5018, Business and Professions Code. Reference: Sections 480, 481, 5100, and 5100.2, Business and Professions Code.

#### **§ 99.1. Rehabilitation Criteria for Denials, Suspensions, Revocations, Restorations, Reduction of Penalty, Etc.**

(a) When considering the denial of a certificate or permit under Section 480 of the Business and Professions Code, the suspension or revocation of a certificate or permit under Business and Professions Code Section 5100, or restoration of a revoked certificate or reduction of penalty under Section 5115 of the Business and Professions Code, the board will consider the following criteria:

(1) Nature and gravity of the act(s) or offense(s).

(2) Criminal record and evidence of any act(s) committed subsequent to the act(s) or offense(s) under consideration which also could be considered as grounds for denial, suspension or revocation.

(3) The time that has elapsed since commission of the act(s) or offense(s) referred to in subdivisions (1) or (2).

(4) The extent to which the applicant or licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Nature and extent of actual and potential consumer harm.

(7) The individual's attitude toward his or her commission of the violations.

(8) The individual's recognition of wrongdoing.

(9) The individual's history of violations.

(10) Nature and extent to which the applicant or licensee has taken corrective action to ensure the violation will not recur.

(11) Nature and extent of restitution to consumers harmed by violations.

(12) Other aggravating or mitigating factors.

(13) Evidence, if any, of rehabilitation submitted by the applicant or licensee; however, evidence of rehabilitation does not necessarily result in a finding that the licensee is rehabilitated.

(b) For purposes of issuing a license to an applicant that has been convicted of a crime, the board will consider the applicant to have made a showing of rehabilitation if the applicant has completed the criminal sentence at issue without a violation of parole or probation.

(c) If the applicant has been convicted of a crime and did not complete the criminal sentence at issue without a violation of parole or probation, and/or if the applicant has been subject to formal discipline by a licensing board in or outside the State within the seven years preceding the application that was based on professional misconduct that is substantially related to the qualifications, functions or duties of a certified public accountant or public accountant, and that would have been cause for discipline by the Board, unless the discipline was based on a conviction that has been dismissed as specified in Section 480(a)(2) of the Business and Professions Code, the Board will find the applicant to have made a showing of rehabilitation if, in applying its criteria for rehabilitation, set forth in (a)(1)-(13) above, the board finds that the applicant is rehabilitated.

(d) For purposes of suspending, revoking, or restoring a license, or the reduction of penalty, the Board will consider whether the licensee made a showing of rehabilitation, if the licensee:

(1) has completed the criminal sentence at issue without a violation of parole or probation, and/or

(2) has demonstrated rehabilitation using criteria set forth in (a)(1)-(13).

Note: Authority cited: Sections 482 and 5010, Business and Professions Code. Reference: Sections 480, 481, 482, 486, 493, 5100, 5115, and 5106, Business and Professions Code; and Section 1203.4, Penal Code.

### **§ 99.2 Directly and Adversely Financial Crime Criteria.**

(a) For the purpose of determining whether there are grounds to deny an applicant who was convicted of a financial crime currently classified as a felony pursuant to Section 480 of the Business and Professions Code, the crime shall be considered to be directly and adversely related to the qualifications, functions, or duties of a certified public accountant if it involves dishonesty, fraud, deceit, or theft that resulted in or could have resulted in either:

(1) Direct financial benefit to the applicant or another person or entity; or

(2) Direct financial harm to another person or entity (to include federal, state, or local government).

(b) The felony financial crimes shall include, but are not limited to, the following;

(1) Crimes involving the acquisition or provision of false, altered, forged, counterfeit, or fraudulent statements or documents.

(2) Crimes involving stolen property, embezzlement, money laundering, fraud, theft, grand theft, larceny, burglary, identity theft, bid rigging, racketeering, tax evasion, conspiracy to defraud, or obtaining money, labor, or property under false pretenses.

(3) Crimes involving an attempt or conspiracy to commit such crimes listed in subdivisions (b)(1) or (b)(2).

Note: Authority cited: Sections 7.5, 5010, 5018, and 5100.2 Business and Professions Code. Reference: Sections 5100 and 5100.2, Business and Professions Code.