

## CALIFORNIA BOARD OF ACCOUNTANCY INITIAL STATEMENT OF REASONS

**Hearing Date:** No hearing has been scheduled.

**Subject Matter of Proposed Regulations:** Continuing Education – Technical subjects, nontechnical subjects, nano learning programs, blended learning programs, adaptive learning self-study learning programs, and exceptions and extensions.

**Section(s) Affected:** Title 16, California Code of Regulations<sup>1</sup> (CCR), Division 1, sections 87, 88, 88.1, 88.2, 89 and 90.

### Introduction:

The California Board of Accountancy (CBA or Board) is a board within the Department of Consumer Affairs (DCA) responsible for regulating the practice of public accounting in the state of California. Pursuant to Business and Professions Code<sup>2</sup> (BPC) section 5000.1, the protection of the public is the CBA's highest priority in exercising its licensing, regulatory, and disciplinary authority. Section 5010 authorizes the CBA to adopt, repeal, or amend regulations as may be reasonably necessary and expedient for the orderly conduct of the CBA's affairs and for the administration of the Accountancy Act.

The legislature determined that it is in the public interest to require Certified Public Accountants (CPAs) and Public Accountants (PAs) licensed under the Accountancy Act to comply with continuing education (CE) requirements adopted by the CBA as a prerequisite to license renewal.<sup>3</sup> Section 5027 requires the CBA to prescribe, amend, and repeal regulations relating to CE requirements and that the CBA establish standards to assure reasonable currency of knowledge as a basis for a high standard of practice by those licensed by the CBA. These standards must assure that a variety of alternatives are available to licensees to comply with the CBA's CE renewal requirements and with an awareness of specialized areas of practice.

California is one of the few states that, rather than pre-approve CE providers or programs, requires licensees to select appropriate programs from CE providers that conform to the minimum program requirements outlined in Article 12<sup>4</sup> of the CBA's regulations. The only exception is the two-hour Board-approved regulatory review course that licensees are required to complete once every six years.

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<sup>1</sup> All CCR references are to Division 1 of Title 16, unless otherwise specified.

<sup>2</sup> All sections refer to the Business and Professions Code, unless otherwise specified.

<sup>3</sup> Business and Professions Code section 5026.

<sup>4</sup> The CBA's CE rules are set forth in Article 12, Division 1, of Title 16 of the CCR.

## Model Rules

Since 2004, the National Association of State Boards of Accountancy (NASBA) has developed the *Uniform Accountancy Act Model Rules (Model Rules)* as part of its effort to promote uniformity in the regulatory schemes governing the practice of accountancy throughout the country and various other jurisdictions. The *Model Rules* include the complete text of a “model” regulation that state boards of accountancy may choose to adopt in whole or in part at each board’s discretion.

An update to the *Model Rules* was adopted by NASBA in October 2017, some of which the CBA is proposing to incorporate into its regulatory scheme. Model Rule 3-8 added 13 technical fields of study that contribute to the maintenance and/or improvement of the competence of public accountancy and directly relate to a CPA’s field of business. The CBA proposes to incorporate four of the technical subject areas in Model Rule 3-8 into its basic requirements for CE. (Note that the most recent version of the *Model Rules* was adopted by NASBA in November 2020 and at that time Model Rule 3-8 was renumbered to 3-9.)

Model Rule 3-10 includes seven nontechnical fields of study that contribute to the maintenance and/or improvement of the competence of a CPA in areas that indirectly relate to the CPA’s field of business. Model Rule 3-10 also references the *Fields of Study* document, as published on NASBA’s website. The *Fields of Study* document provides descriptions of each nontechnical subject area and examples of the types of topics that might be included in each area.

## Model Standards

The accounting profession also has the national *Statements on Standards of Continuing Education (CPE) Programs (Standards)*, which have been jointly issued and amended for over a decade by NASBA and the American Institute of Certified Public Accountants (AICPA). The *Standards* are intended to assist state boards of accountancy in establishing baseline requirements to ensure high-quality CE for the practice of public accountancy.

Although CE requirements outlined in Article 12 of the CBA’s regulations are similar to the *Model Rules* and *Standards*, the CBA carefully considers them and independently establishes standards that will assure reasonable currency of knowledge as a basis for a high standard of practice by licensees and in a manner to assure that a variety of alternatives are available to licensees to comply with the continuing education requirements for license renewal and with an awareness of specialized areas of practice.

The most recent update to the *Standards*, effective December 2019, addresses various areas of the CE framework, including two CE programs first introduced in the *Standards* in 2016 (nano learning and blended learning) and one new CE program first introduced in the *Standards* in December 2019 (adaptive self-study). The *Standards* describe nano learning, blended learning and adaptive self-study programs, as follows:

### Nano Learning Program

A nano learning program is a tutorial program designed to permit a participant to learn a given subject in a 10-minute time frame through the use of electronic media (including technology applications and processes and computer-based or web-based technology) and without interaction with a real-time instructor. It differs from a self-study program in that it is typically focused on a single learning objective and is not paper-based. A nano learning program is not a group program. Nano learning is not a substitute for comprehensive programs addressing complex issues. Nano learning programs must use instructional methods that clearly define at least one learning objective, guide the individual through a learning program, and provide evidence of the individual's satisfactory completion of the program prior to issuing credit for the course. Such evidence is demonstrated by the participant successfully passing an assessment with a score of 100 percent.

### Blended Learning Program

A blended learning program is an educational program incorporating multiple learning formats. It must use instructional methods that clearly define learning objectives and guide the participant through a learning program. Pre-program, post-program, and homework assignments should enhance the learning program experience and must relate to the defined learning objective of the program.

### Adaptive Self-Study Program

A self-study program that uses a computer algorithm, other predictive analytics tools, or learner-driven selections to orchestrate interaction with the learner and deliver customized learning activities to assist the learner in meeting the course's stated learning objectives.

Upon the CBA's lengthy review and numerous discussions of the *Model Rules and Standards*, the CBA proposes amendments to its CE requirements as described herein.

### Exceptions and Extensions

CCR section 87(f) requires licensees who are subject to the Government Auditing or Accounting and Auditing CE requirement, as described in CCR sections 87(c), 87(d), and 87(e) of the CBA Regulations, to complete four hours of Fraud CE specifically related to the prevention, detection, and/or reporting of fraud affecting financial statements.

Prior to the four-hour requirement, subject licensees were required to complete eight hours of Fraud CE. The CBA approved a reduction from eight hours to four hours to eliminate duplication and overlap in educational course content and because fraud has become a regular part of the accounting education required for licensure over the past decade.

The rulemaking to reduce the Fraud CE requirement from eight hours to four hours was approved; however, there was a cross-reference regarding the Fraud CE requirement

that inadvertently did not get amended. CCR section 90(d) presently references the prior Fraud CE requirement of eight hours.

**Problems being addressed:**

The national model for CE is evolving and CBA proposes to amend its regulations to address these changes. CE providers are developing courses consistent with the national model, which may become problematic for California licensees if the CE course does not conform to California requirements. This gap between the national model and California CE requirements could make it difficult for licensees to complete the necessary CE to meet license renewal requirements.

Recognizing the need for CE to evolve and keep pace with current effective learning models, technological advances and business trends, the CBA proposes to update and modernize its CE requirements to include three new CE programs, add four technical subject areas for a wider variety of technical subject areas for which a licensee may earn CE credit, update its nontechnical subject areas to those in the national model, allow CE to be earned in increments, and include CE requirements that were inadvertently omitted from the CBA's 2014 CE rulemaking.

Pursuant to CCR section 90(d), licensees who are granted an extension of time to complete CE must continue to complete 24 hours of CE required pursuant to CCR sections 87(c) and 87(d), and eight hours of Fraud CE required by CCR section 87(e).

A rulemaking to reduce the Fraud CE requirement in CCR section 87(e) from eight hours to four hours was approved and effective in 2014; however, there was a cross-reference to the Fraud CE requirement that inadvertently did not get amended. CCR section 90(d) presently cross-references the Fraud CE requirement of CCR section 87(e), but inaccurately references the requirement as eight hours.

**Anticipated benefits from this regulatory action:**

This regulatory proposal is anticipated to provide licensees with increased access and greater flexibility in completing the CE hours required for license renewal, which would ultimately benefit consumers as the recipients of public accountancy services. The addition of three new CE programs will provide increased access to CE and allow a wider range of ways to learn and maintain currency in the practice of public accountancy. The addition of four technical subject areas would provide expanded options for completing CE in technical subject areas. Allowing licensees to earn CE credit in shorter increments would make it easier for busy licensees to earn CE credit in their spare time. Replacing outdated nontechnical CE subject areas with more current subjects will ensure that the content is directly related to the competence of a CPA in areas that indirectly relate to the CPA's field of business.

The proposed amendments will clarify for licensees that, if they obtain an extension of time to complete their CE pursuant to CCR section 90(d), they will only need to complete four hours of Fraud CE, as indicated in section 87(e), instead of eight hours as is currently indicated in section 90(e). This will correct an oversight that occurred with

the 2014 CBA rulemaking that implemented a reduction of Fraud CE hours from eight hours to four hours. The benefits of the reduction of Fraud CE hours was documented in the 2014 CBA rulemaking, the edit to 90(d) addressed in this rulemaking is simply correcting a cross-reference that should have been made in 2014.

### **Specific Purpose/Factual Basis/Rationale**

The CBA proposes the following:

#### **1. Amend CCR Section 87 (Basic Requirements)**

The proposed amendments would establish the basic requirements for CE credit with the CBA. This is critical to ensure that licensees, who complete courses that contribute directly to the professional competence of a licensee in public practice, can count the CE towards the renewal of their California CPA license. In addition, general changes were made to the proposed regulations to include grammatical edits, revising gender-specific pronouns to be gender neutral, and renumbering and/or re-lettering to reflect deletions or additions.

#### **Section 87(a)(2)**

The CBA proposes to add business law, economics, management services and statistics as technical subject areas. Fifty percent of a licensee's required CE hours must be in the technical subject areas identified in CCR subsection 87(a)(2). The CBA would like to provide its licensees with the following additional technical subject areas to complete this requirement: business law, economics, management services, and statistics; therefore, the CBA's proposal is reasonably necessary to add these additional technical subject areas to subsection (a)(2).

These additional technical subject areas are reasonably necessary as they directly relate to the practice of public accounting, would assure reasonable currency of knowledge as a basis for a high standard of practice by licensees, and would assure a variety of alternatives are available to licensees in complying with their CE requirements for license renewal with an awareness to specialized areas of practice.

In expanding the technical subject matter, it is critical to ensure that the focus relates to the practice of public accounting as defined in BPC section 5051, which states the following:

...a person shall be deemed to be engaged in the practice of public accountancy within the meaning and intent of this chapter if he or she does any of the following:

- (a) Holds himself or herself out to the public in any manner as one skilled in the knowledge, science, and practice of accounting, and as qualified and ready to render professional service therein as a public accountant for compensation.
- (b) Maintains an office for the transaction of business as a public accountant.

- (c) Offers to prospective clients to perform for compensation, or who does perform on behalf of clients for compensation, professional services that involve or require an audit, examination, verification, investigation, certification, presentation, or review of financial transactions and accounting records.
- (d) Prepares or certifies for clients reports on audits or examinations of books or records of account, balance sheets, and other financial, accounting and related schedules, exhibits, statements, or reports that are to be used for publication, for the purpose of obtaining credit, for filing with a court of law or with any governmental agency, or for any other purpose.
- (e) In general or as an incident to that work, renders professional services to clients for compensation in any or all matters relating to accounting procedure and to the recording, presentation, or certification of financial information or data.
- (f) Keeps books, makes trial balances, or prepares statements, makes audits, or prepares reports, all as a part of bookkeeping operations for clients.
- (g) Prepares or signs, as the tax preparer, tax returns for clients.
- (h) Prepares personal financial or investment plans or provides to clients products or services of others in implementation of personal financial or investment plans.
- (i) Provides management consulting services to clients.

Each of the subject areas have a direct correlation, as follows:

- Business law courses examine the topics that impact the operation of a business, including, but not limited to, income tax, trusts, and pensions.
- Economics courses generally deal with the creation, consumption, and transfer of wealth. The study of economics encompasses the major areas of microeconomics, which explores how people and firms produce and consume goods and services, and macroeconomics, which explores mass economic progress and inter-country trade.
- Management Services is a broad area of study that encompasses topics such as corporate cash management, cost management, and revenue management.
- Statistics is the science of learning from data. It is concerned with the collection, analysis, and interpretation of data, as well as the effective communication and presentation of results relying on data.



Therefore, the Board has determined that these four technical areas are appropriate, pursuant to BPC 5051.

**Section 87(a)(3), 87(a)(3)(A), 87(a)(3)(B), 87(a)(3)(C), 87(a)(3)(D), 87(a)(3)(E), and 87(a)(3)(F)**

The CBA proposes to clarify the meaning of “nontechnical subject areas” by adding that nontechnical CE must “contribute to the professional competence of a licensee.” The proposed clarifying language in subsection 87(a)(3) is consistent with already existing language in subsection 87(a)(4) that outlines subjects that are not acceptable as nontechnical CE as those subjects that “do not contribute directly to the professional competence of the licensee.”

The CBA proposes to replace the current nontechnical subject areas (i.e., communication skills, word processing, sales, marketing, motivational techniques, negotiation skills, office management, practice management, and personnel management) with the following nontechnical subject areas that are consistent with the national model:

- Behavioral ethics (e.g., ethical decision-making; personal ethics; diversity, equity and inclusion; etc.).
- Business management and organization (e.g., organization of a public accounting practice, etc.).
- Communications and Marketing (e.g., business presentations, business writing, social media, customer communications, marketing professional services, etc.).
- Computer software and applications (e.g., courses in the general use of software used in a business environment, etc.).
- Personal Development (e.g., career planning, leadership, time management, etc.).
- Personnel/Human resources (e.g., attracting, motivating, developing and retaining employees; social justice in staff recruitment and retention; etc.).
- Production (e.g., operations management, inventory management, supply operations, etc.).

The replacement of the nontechnical fields of study allow for the removal of outdated content (e.g., word processing) and also provides for additional clarity to licensees and CE providers with the addition of example CE courses for each subject area (e.g., a course on diversity, equity and inclusion would be an example of a course covering the subject area of behavioral ethics). The proposed nontechnical subject areas are reasonably necessary as they directly relate to a licensee’s currency of knowledge in areas that are directly related to their professional competence.

The CBA proposes to replace “non-technical” to the more commonly used spelling of “nontechnical.”

**Section 87(b)**

The CBA proposes to correct a missing period after the subsection title “Ethics Continuing Education Requirement.”

**Section 87(e)**

The CBA proposes to replace “his/her” with the gender-neutral term “their.” In Assembly Concurrent Resolution No. 260 of 2018 (ACR 260), the Legislature resolved that “state agencies should ... use gender-neutral pronouns and avoid the use of gendered pronouns when drafting policies, regulations, and other guidance.” This is a change without regulatory effect because the amendments are grammatical in nature. Changing gendered terms to gender-neutral terms parallels other efforts throughout the state.

**Section 87(f)**

The CBA proposes to insert a subsection title “Fraud Continuing Education Requirement.” to increase clarity by matching the use of subsection titles in this section.

**Note to Section 87**

The CBA proposes to correct a missing capitalization of the word “Professions” in the Reference citation.

**2. Amend CCR Section 88 (Programs Which Qualify)**

The proposed amendments would establish the requirements that nano, blended learning, and adaptive learning self-study programs need to meet to qualify for CE credit with the CBA. This is critical to ensure that licensees, who complete courses with these new CE programs that contribute directly to the professional competence of a licensee in public practice, can count the CE towards the renewal of their California CPA license. In addition, general changes were made to the proposed regulations to include grammatical edits, revising gender-specific pronouns to be gender neutral, and renumbering and/or re-lettering to reflect deletions or additions.

**Section 88(a)(1)**

The CBA proposes to replace “his/her” with the gender-neutral term “their” for the reasons described in 87(e), above.

**Section 88(b)**

The CBA proposes to insert a subsection title “Live Presentations:” to increase clarity by matching the use of subsection titles when referencing instructional delivery methods in this section.

**Section 88(b)(3)(i)**

The CBA proposes to replace a hyphen with a colon to increase clarity by matching the style used throughout this section.



### **Section 88(b)(3)(ii)**

The CBA proposes to replace “Non credit” with “Non-credit” given the term modifies courses. This is a grammatical change only.

The CBA proposes to replace a hyphen with a colon to increase clarity and consistency by matching the punctuation used throughout this Section.

### **Section 88(c)**

The CBA proposes to correct a missing capitalization of the word “Webcast.” This is a grammatical change only.

### **Section 88(d)**

The CBA proposes to insert a subsection title “Individual Study:” to increase clarity by matching the use of subsection titles when referencing instructional delivery methods in this section.

The CBA proposes to insert the phrase “they meet all of the following requirements” to increase clarity of the individual study program requirements.

### **Section 88(d)(1), 88(d)(2), 88(d)(3) and 88(d)(4)**

The CBA proposes to add capitalizations and periods and remove commas to increase clarity by matching the punctuation used throughout this section.

### **Section 88(e)**

The CBA proposes to insert a subsection title “Individual Study/National Examinations Continuing Education:” to increase clarity by matching the use of subsection titles when referencing instructional delivery methods in this section.

### **Section 88(f)**

The CBA proposes to amend subdivision (f) to add nano learning programs to the list of qualified learning programs using the *Standards* as a guide and renumber the subsequent subdivisions. The CBA proposes to use the *Standards* as a guide to ensure that the CE completed by CBA licensees via a nano learning program qualifies for CE credit with the CBA.

With the exception of the two-hour Board-approved regulatory review course, which licensees are required to complete once every six years, the CBA allows licensees completing their required CE hours for renewal to self-select appropriate CE programs that conform to the CBA’s requirements. Many CE providers offer their products nationally and, since the *Standards* are used throughout the country, often conform their products to the *Standards*. Therefore, the CBA’s proposal to model the regulations addressed in this rulemaking after the *Standards* is reasonably necessary to assure that a variety of alternatives are available to its licensees in complying with CE requirements.

This would also assure that the CBA's licensees in California, and those throughout the country providing public accountancy services to California consumers under practice privilege<sup>5</sup>, would be able to complete their CE requirements using nano learning programs. Further, the addition of nano learning as a qualifying learning program for CE and the requirements described in CCR section 87, above, are reasonably necessary to allow the CBA to keep pace with technology and provide licensees with flexibility and a variety of alternatives in assuring their reasonable currency of knowledge as a basis for a high standard of practice.

Consistent with Standard Number 10: Nano Learning Programs, subdivision (f) would specify that nano learning programs enable a licensee to learn a given subject with a minimum of one learning objective in a minimum of 10 minutes and less than 20 minutes, including the qualified assessment. It is reasonably necessary for the program to focus on one subject due to the limited duration of the program (a minimum of 10 minutes and less than 20 minutes). The variable time allowance (a minimum of 10 minutes and less than 20 minutes) ensures there is sufficient time for the licensee to learn based on the subject of the course and time to complete the assessment.

Further, nano learning programs use electronic media without interaction with a live instructor and are not live or group internet-based. These elements are reasonably necessary to provide maximum flexibility for the licensee to complete the program as their schedule allows using modern technology. The programs are intended to teach one subject at a time to accommodate licensees' busy schedule in completing their required CE while providing quality instruction.

In order to provide a successful learning experience and in order for a nano learning program to qualify for CE credit with the CBA, it is reasonably necessary that the programs meet certain criteria, as proposed below.

#### **Section 88(f)(1)**

The CBA proposes to add this subsection to require nano programs be based upon materials specifically developed for instructional use. This is reasonably necessary to ensure that the subject matter is developed with a focus on enabling an individual to learn a specific topic in the designated time.

#### **Section 88(f)(2)**

The CBA proposes to add this subsection to require nano programs meet the requirements of CCR sections 88(a) (Programs Which Qualify), 88.1(d) (Provider Requirements), and 88.2(d) (Program Measurements). It is reasonably necessary for a nano learning program to meet these standards to ensure it qualifies as acceptable continuing education, requires records of completion, issues a certificate of completion

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<sup>5</sup> An individual whose principal place of business is not in California and who has a valid and current license to practice public accountancy from another state may, subject to certain conditions and limitations, engage in the practice of public accountancy in California under a practice privilege without obtaining a certificate or license from the CBA if certain criteria are met. (Bus. & Prof. Code, § 5096.)

and identifies how the continuing education credit will be awarded. These same requirements exist for other continuing education methodologies and therefore are consistent with current requirements.

### **Section 88(f)(3)**

The CBA proposes to add this subsection to limit nano programs to appropriate subject areas. As stated in the *Standards*, a nano learning program is not a substitute for a comprehensive program addressing complex issues; therefore, it is reasonably necessary that CE credit using nano learning not be available to meet the ethics, prevention, detection and/or reporting of fraud CE requirements, which continue to be subject to the requirements described in Section 88.2 due to their more complex nature. This will ensure that nano learning programs are limited to appropriate subject areas so that the programs contribute directly to the professional competence of a licensee in public practice.

### **Sections 88(f)(4) and (f)(5)**

The CBA proposes to add these subsections to address nano program requirements. The licensee must complete the nano learning program within one year from the date of purchase or enrollment in the program and receive a 100 percent score on a test given to the participants prior to issuance of a certificate of completion of the program. To ensure that licensees complete the program timely and the course information is relevant, a timeframe to complete the program is necessary. Further, due to the evolving nature of the public accounting profession, and as courses for CE change rapidly, the proposed requirement that the program be completed within one year from the date of purchase or enrollment ensures that licensees learn current and relevant information that contributes to maintaining competency in public accountancy. Due to the abbreviated nature of nano learning, the fact it is focused on a single subject, and is done without the participation of an instructor or in a live format, the requirement of a 100 percent score on the test prior to the issuance of a certificate of completion of the program ensures that the licensee learned and retained knowledge on the subject taught.

### **Section 88(g): Blended Learning Programs**

The CBA has determined that the *Standards* is an appropriate guide for CE, and the *Standards* provide for blended learning as a form of CE. Therefore, the CBA proposes to amend subdivision (g) to add blended learning programs to the list of qualifying CE programs and renumber the subsequent subdivisions.

Subdivision 88(g) would specify that blended learning programs enable a licensee to learn through both synchronous and asynchronous learning activities using a variety of instructional strategies, instructional delivery methods or levels of guidance. The rationale behind this type of learning format is based on the need to modernize the way CE is provided by incorporating both synchronous (participants engage simultaneously) and asynchronous (participants engage individually) formats into a single CE program. This type of learning format recognizes that individual learning objectives can be linked to efficient and effective learning activities (i.e., synchronous and asynchronous).

The addition of blended learning programs would also assure that the CBA's licensees in California, and those throughout the country providing public accountancy services to California consumers under practice privilege<sup>6</sup>, would be able to complete their CE requirements using blended learning programs. Further, the addition of blended learning as a qualifying learning program for CE and the requirements described in CCR section 87 are reasonably necessary to allow the CBA to keep pace with technology and provide licensees with flexibility and a variety of alternatives in assuring their reasonable currency of knowledge as a basis for a high standard of practice.

Blended learning programs must provide clear instructions and information to participants summarizing the different components of the program and what the participant must complete or achieve during each component to qualify for CE hours. Because blended learning programs incorporate different learning activities and support a variety of instructional strategies, delivery methods or levels of guidance, this requirement is necessary to ensure the licensee has a sufficient understanding of the course structure prior to starting the course.

Subdivision 88(g) would also specify that “synchronous” is a program in which participants engage simultaneously in instructional methods, and “asynchronous” is a program in which participants have control over the time, place, and pace of the learning. This distinction and description assists the licensee in understanding that a CE course may be considered ‘blended’ because it mixes simultaneous (synchronous) instruction and non-simultaneous (asynchronous) learning activities. This differs from traditional CE courses that involve only one type of learning activity.

The proposal specifies that a blended learning program would be qualifying if all the following criteria are met:

- 1) Subsection (g)(1): A blended learning program must be based upon material specifically developed for instructional use to ensure that the subject matter is developed with a focus on enabling an individual to learn a specific topic.
- 2) Subsection (g)(2): A blended learning program must meet the requirements of Section 88(a), Section 88.1(e), and Section 88.2(e) to ensure that the course can be used towards the requisite CE for license renewal. It is reasonably necessary for a blended learning program to meet these standards to ensure it qualifies as acceptable continuing education, requires records of completion, certificate issuance and identifies how the continuing education credit will be awarded. These same requirements exist for other continuing education programs and therefore is consistent with current requirements.

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<sup>6</sup> An individual whose principal place of business is not in California and who has a valid and current license to practice public accountancy from another state may, subject to certain conditions and limitations, engage in the practice of public accountancy in California under a practice privilege without obtaining a certificate or license from the CBA if certain criteria are met. (Bus. & Prof. Code, § 5096.)

3) Subsection (g)(3): Where the primary components of the blended learning activities are synchronous learning activities, requires the continuing education hours for pre-program, post-program, and homework assignments cannot constitute more than 25 percent of the total continuing education hours awarded for the blended learning program.

Differentiating blended learning programs that primarily use synchronous learning activities allows for appropriate regulatory requirements consistent with other CE programs that exclusively utilize synchronous learning activities (i.e., group internet-based programs and live presentations). Limiting the various components that involve asynchronous learning activities to 25 percent of the total CE hours ensures that a substantial portion of the blended learning CE is conducted utilizing activities that participants engage in simultaneously. Twenty-five percent was identified as the maximum amount of asynchronous content in blended learning programs that are primarily synchronous to ensure California requirements are consistent with the national *Standards*.

4) Subsection (g)(4): Primarily asynchronous blended learning programs must use a test to demonstrate achievement of the learning objectives of the program consistent with other CE programs that exclusively utilize asynchronous learning activities (i.e., self-study).

Asynchronous learning activities are self-guided and self-paced. To ensure the licensee is learning and gaining knowledge of the subject matter and to ensure the learning objectives are being met, a test that assesses at least 75 percent of the course content will adequately assess the individuals understanding of the learning objectives. The test must be completed during or after the program with a cumulative passing score before issuing the continuing education hours. This ensures the content of the course has been provided and learned by the licensee. Further, 75 percent was identified in the *Standards* and ensures that California requirements are consistent with the national model.

### **Section 88(h)**

The CBA proposes to insert a subsection title “Instructor/Speaker Continuing Education:” to increase clarity by matching the use of subsection titles when referencing instructional delivery methods in this section.

### **Section 88(i)**

The CBA proposes to insert a subsection title “Writing-Related and Technical Continuing Education:” to increase clarity by matching the use of subsection titles when referencing instructional delivery methods in this section.

### **Section 88(i)(1)**

The CBA proposes to replace “his/her” with the gender-neutral term “their” for the reasons described in 87(e), above.

### **Section 88(j)**

Subdivision (i) (presently (g)) provides licensees the opportunity to earn CE credit for identified writing activities and for performing technical reviews of instructional materials for qualifying CE programs. Subdivision (j) (presently (h)) currently caps the allowable credit at 25 percent of the required CE. Expanding the allowable CE credit for writing-related and technical CE review activities provides licensees more flexibility in completing this type of CE, while still ensuring minimum competency. Strong writing skills are a necessary component in practicing public accounting, underscoring the rationale to expand the allowable hours for this type of CE. Allowing fifty percent of the CE from this method provides a good balance of learning methodologies. Fifty percent was identified in the *Standards* and ensures that California requirements are consistent with the national model.

With the adoption of these proposed changes, the subdivisions in Section 88 would be renumbered as follows: (f) to (h), (g) to (i), (h) to (j), and (i) to (k). This would ensure the reader will easily be able to find information and comply with the CE requirements.

### **Note to Section 88**

The CBA proposes to revise the Reference section of the Note to Section 88 to include Business and Professions Code 5026. This revision is included to connect Section 5026, noting the Legislature's intent that it is in the public interest to require continuing education for the CBA's licensees, to Section 88, identifying the continuing education programs.

### **3. Amend CCR Section 88.1 (Provider Requirements)**

The proposed amendments would establish the requirements CE providers would be required to meet for their nano, blended learning, and adaptive learning self-study programs to qualify for CE credit with the CBA. This is critical to ensure that licensees, who complete courses with these new CE programs that contribute directly to the professional competence of a licensee in public practice, can count the CE towards the renewal of their California CPA license. In addition, general changes were made to the proposed regulations to include grammatical edits, revising gender-specific pronouns to be gender neutral (for the reasons described in 87(e), above), and renumbering and/or re-lettering to reflect deletions or additions.

### **Section 88.1(a)**

The CBA proposes to correct a missing period after the subsection title "Live Presentations."

The CBA proposes to add "meet all of the following requirements:" to increase clarity of the requirements a provider of a live presentation program must meet for acceptable continuing education under Section 88(b).



### **Section 88.1(b)**

The CBA proposes to correct a missing period after the subsection title “Group Internet-Based Programs (Webcast).”

The CBA proposes to un-capitalize “group internet-based program” for consistency with other program names within the section that are not capitalized.

The CBA proposes to add “meet all of the following requirements:” to increase clarity of the requirements a provider of a group internet-based program must meet for acceptable continuing education under Section 88(c).

### **Section 88.1(b)(3)**

The CBA proposes to correct a missing capitalization of the word “Webcast.”

The CBA proposes to amend subsection 88.1(b)(3) to include adaptive learning self-study. This subsection describes requirements when utilizing a pre-recorded video as part of a group-internet based CE program. The addition of adaptive learning self-study is for clarity and consistency with the proposed change to subdivision 88.2(c) which changes that subsection title from “Self-Study” to “Self-Study and Adaptive Learning Self-Study.” This change is necessary to reduce confusion given the cross reference to subdivision 88.2(c) in subsection 88.1(b)(3).

The CBA proposes to amend subsection 88.1(b)(3) to correct a cross reference in subsection 88.1(b)(3). Currently, the subsection incorrectly references subdivision 88(c) which relates to group-internet based CE programs when it should be referencing subdivision 88(d) related to individual study programs. This edit is necessary to establish the correct linkage to the self-study requirements as indicated in subsection 88.1(b)(3).

### **Section 88.1(c)**

The CBA proposes to amend the subdivision (c) title and text to include adaptive learning self-study. This subdivision introduces the requirements for self-study programs to be acceptable as continuing education. The addition of adaptive learning self-study is for clarity and consistency with the proposed change to subdivision 88.2(c) which changes that subsection title from “Self-Study” to “Self-Study and Adaptive Learning Self-Study.”

The CBA proposes to add “meet all of the following requirements:” to increase clarity of the requirements a provider of a self-study or adaptive learning self-study program must meet for acceptable continuing education under Section 88(d).

### **Section 88.1(d)**

The CBA proposes to add subdivision (d), which would specify the minimum requirements CE providers would be required to meet for their nano learning program(s) to qualify for CBA CE credit. These required qualifications would ensure the programs will contribute directly to the professional competence of a licensee in public practice.

Further, these requirements are consistent both with the *Standards* and the requirements for existing learning programs in the CBA's regulations. Specifically, this ensures the course qualifies as acceptable continuing education, requires records of completion, certificate issuance and identifies how the continuing education credit will be awarded.

Consistency with the *Standards* is necessary for the following reasons:

Many CE providers offer their products nationally and, since the *Standards* are used throughout the country, often conform their products to the *Standards*. The CBA proposes to model the regulations addressed in this rulemaking after the *Standards* to assure that a variety of alternatives are available to its licensees in complying with CE requirements. This would also assure that licensees in not only California, but also those throughout the country providing public accountancy services to California consumers under practice privilege<sup>7</sup>, would be able to comply with their CE requirements using nano learning programs.

Additionally, although there are numerous and a wide variety of CE providers, it's important for licensees to pick a provider and course that aligns with their practice area, as the goal of CE is to maintain competency. If jurisdictions create state-specific CE requirements that don't align with the *Standards*, it creates a disadvantage for California licensees as their options for selecting a course that meets their practice needs could be impacted by the need to pick one that meets California-specific requirements.

During the development of these CE Regulations, it was critical to align the requirements with existing methodologies. Ensuring a level of consistency throughout the CE requirements will assist licensees in selecting courses that will count towards their license renewal requirements.

Specifically, under the CBA's proposal, CE providers of nano learning programs would be required to:

- (1) Retain, for a period of five years, written educational goals and specific learning objectives, as well as a syllabus. The syllabus must provide a general outline, instructional objectives, and a summary of topics for the course. The CE provider would be required to make a copy of the educational goals, learning objectives, and course syllabus available to the CBA upon request.

The underlying purpose for the retention of specific records is to ensure documentation for all courses is available, if necessary, to both the licensee and CBA. This extends to the requirement that the provider retain written educational

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<sup>7</sup>An individual whose principal place of business is not in California and who has a valid and current license to practice public accountancy from another state may, subject to certain conditions and limitations, engage in the practice of public accountancy in California under a practice privilege without obtaining a certificate or license from the CBA if certain criteria are met. (Bus. & Prof. Code, § 5096.)

goals, specific learning objectives, syllabi, instructional objectives and topic summaries for courses, which must be retained by providers of other types of continuing education programs. Without the documentation for all courses being retained, a licensee may be unable to obtain verification of attendance and/or unable to verify the content of the courses. Further, the need for a five-year retention period is based on having the records available for two renewal cycles (which is four years) plus time for CBA administrative purposes (e.g., conducting an audit, performing an investigation, etc.). These requirements are consistent with existing regulations in CCR 88.1 regarding provider requirements.

(2) Issue a certificate of completion, with verification, such as a signature or seal, certified by a program provider representative, to each licensee upon satisfactory completion of the course. The verification and issuance by the program provider representative ensures the authenticity of the certificate. The CE provider would also be required to retain records of licensees receiving certificates of completion for a period of five years. The amount of credit would need to be displayed on the certificate of completion and would need to be calculated in accordance with Section 88.2(d)<sup>8</sup>. The certificate of completion must specify the technical and nontechnical subject areas<sup>9</sup> for which the licensee may claim credit. These requirements are consistent with existing regulations in CCR 88.1 regarding provider requirements.

It is critical for a licensee to receive documentation of the CE course they attend and/or complete. Without the provider issuing this documentation, there would be no way to confirm completion of a CE course and the licensee could not provide evidence that they met the required CE hours for license renewal. The five-year retention period is required to ensure the records are available to the licensee or CBA for two renewal cycles (which is four years) plus time for CBA administrative purposes (e.g., conducting an audit, performing an investigation, etc.).

In order to identify what CE a licensee has completed, the amount of credit earned calculated in accordance with proposed section 88.2(d) and subject area of the course must be included. CCR section 88.2(d) establishes a calculation method that is consistent with Standard 3.4 regarding Standards for CPE Program Measurement. This is necessary for both the licensee and the CBA to ensure that the following requirements are met within the 80 CE hours necessary for active license renewal:

- A minimum of 20 hours completed during each year of the two-year license renewal period, including 12 hours in technical subject matterFour hours of ethics education.

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<sup>8</sup> The CBA proposes to add Section 88.2(d), discussed in more detail below, to establish requirements for nano learning programs to qualify as acceptable CE under proposed new Section 88(f), which describes CBA-qualifying nano learning programs.

<sup>9</sup> Described in Section 87(a)(2) and (3), respectively.

- A two-hour Board-approved Regulatory Review course if more than six years have lapsed since the licensee last completed a Board-approved Regulatory Review course.
- If subject to the Government Auditing or Accounting and Auditing CE requirement, as described in sections 87(c) and 87(d) of the CBA Regulations, the licensee must complete 24 hours of CE as described in those sections.
  - If the licensee is subject to this requirement, they must complete four hours of Fraud CE specifically related to the prevention, detection, and/or reporting of fraud affecting financial statements in addition to the 24-hour requirement, as described in section 87(e) of the CBA Regulations.
- If subject to the Preparation Engagement CE requirement, as described in section 87(e) of the CBA Regulations, the licensee must complete eight hours of CE as described in that section.
  - If the licensee is subject to this requirement, they must complete four hours of Fraud CE specifically related to the prevention, detection, and/or reporting of fraud affecting financial statements in addition to the eight-hour requirement, as described in section 87(e) of the CBA Regulations.
- The remaining hours may be completed in qualifying technical or non-technical subject matter of the licensee's choice, so long as a minimum of 40 hours are completed in technical subject matter.

### **Section 88.1(e)**

The CBA proposes to add subdivision (e) to specify the minimum requirements CE providers would be required to meet for their blended learning programs to qualify for CBA CE credit. These required qualifications would ensure the course will contribute directly to the professional competence of a licensee in public practice. Further, these requirements are consistent with both the *Standards* and the requirements for existing qualifying methodologies in the CBA's regulations.

Consistency with the *Standards* is necessary because many CE providers offer their products nationally and, because the *Standards* are used throughout the country, often conform their products to the *Standards*. The CBA proposes to model the regulations addressed in this rulemaking after the *Standards* to assure that a variety of alternatives are available to its licensees in complying with CE requirements. This would also assure that licensees in not only California, but also those throughout the country providing public accountancy services to California consumers under a practice privilege<sup>10</sup>, would be able to comply with their CE requirements using the blended learning program.

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<sup>10</sup>An individual whose principal place of business is not in California and who has a valid and current license to practice public accountancy from another state may, subject to certain conditions and limitations, engage in the practice of public accountancy in California under a practice privilege without obtaining a certificate or license from the CBA if certain criteria are met. (Bus. & Prof. Code, § 5096.)

Additionally, although there are numerous and a wide variety of CE providers, it's important for licensees to pick a provider and course that aligns with their practice area as the goal of CE is to maintain competency.

During the development of these CE Regulations, it was critical to align the requirements with existing methodologies. Ensuring a level of consistency throughout the CE requirements will assist licensees in selecting courses that will count towards their license renewal requirements.

If jurisdictions create state-specific CE requirements that don't align with the *Standards*, it creates a disadvantage for California licensees as their options for selecting a course that meets their practice needs could be impacted by the need to pick one that meets California specific requirements.

Specifically, under the CBA's proposal, and to ensure consistent with existing regulations in CCR section 88.1, CE providers of blended learning programs would be required to:

(1) Retain, for a period of five years, written educational goals and specific learning objectives, as well as a syllabus. The syllabus must provide a general outline, instructional objectives, and a summary of topics for the course. The CE provider would be required to make a copy of the educational goals, learning objectives, and course syllabus available to the California Board of Accountancy upon request.

The underlying purpose for the retention of specific records is to ensure documentation for all courses is available, if necessary, to both the licensee and the CBA. Without the documentation for all courses being retained, a licensee may be unable to obtain verification of attendance and/or unable to verify the content of the courses.

Further, the need for a five year retention period is based on having the records available for two renewal cycles (which is four years) plus time for CBA administrative purposes (e.g., conducting an audit, performing an investigation, etc.).

(2) Issue a certificate of completion, consistent with the regulations for other presentation methods (for example, as described in existing 16 CCR 88.1(a) for live presentations), that includes verification, such as a signature or seal, certified by a program provider representative, to each licensee upon satisfactory completion of the course. The verification and issuance by the program provided representative ensures the authenticity of the certificate. The CE provider would also be required to retain records of licensees receiving certificates of completion for a period of five years. The amount of credit would need to be displayed on the certificate of completion and would need to be calculated in accordance with

Section 88.2(e)<sup>11</sup>. The certificate of completion must specify the technical and nontechnical subject areas<sup>12</sup> for which the licensee may claim credit.

It is critical for a licensee to receive documentation of the CE course they attend and/or complete. Without the provider issuing this documentation, there would be no way to confirm completion of a CE course and the licensee could not provide evidence that they met the required CE hours for license renewal. The five-year retention period is required to ensure the records are available to the licensee or CBA for two renewal cycles (which is four years) plus time for CBA administrative purposes (e.g., conducting an audit, performing an investigation, etc.).

To identify what CE a licensee has completed, the amount of credit earned and subject area of the course must be included. This is necessary for both the licensee and the CBA to ensure that the appropriate subject-matter CE requirements are met for active license renewal as discussed above.

#### **4. Amend CCR Section 88.2 (Program Measurements)**

The proposed amendments would establish the program measurements for live presentations, group internet-based, self-study and adaptive learning self-study, nano, and blended CE programs. This is critical to ensure that licensees, who complete courses with these new CE programs that contribute directly to the professional competence of a licensee in public practice, can count the CE towards the renewal of their California CPA license. In addition, general changes were made to the proposed regulations to include grammatical edits, revising gender-specific pronouns to be gender neutral, and renumbering and/or re-lettering to reflect deletions or additions.

##### **Section 88.2(a)**

The CBA proposes to correct a missing period after the subsection title “Live Presentations.”

The CBA proposes to add “meet all of the following requirements:” to increase clarity of the requirements a provider of a live presentation program must meet for acceptable continuing education under Section 88(b).

The CBA proposes to amend Section 88.2(a)(1) relating to the measurement of class hours for live presentation programs. Defining the credit allowed for the time of instructional segments ensures the licensee will know how much credit they receive for attending/participating in the course. Specifically, the CBA proposes the following:

- (1) For live presentation programs composed of several segments where the individual segments are less than 50 minutes each, the CBA currently allows

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<sup>11</sup> The CBA proposes to add Section 88.2(e), discussed in more detail below, to establish requirements for blended learning programs to qualify as acceptable CE under proposed new Section 88(g), which describes CBA-qualifying blended learning programs.

<sup>12</sup> Described in Section 87(a)(2) and (3), respectively.



segments that are not less than 25 minutes to be added together to equal a full 50-minute class hour. The CBA proposes to reduce these 25-minute increments to 10-minute increments. Specifically, the proposal would amend “increments not less than 25 minutes” to “increments not less than 10 minutes.” Specifically, credit can be earned in 10-minute increments (one fifth of a 50-minute class hour). The reduction to 10-minute increments is consistent with the *Standards* and will assist licensees by enabling them to take courses that both address their competency needs and meet CBA license renewal requirements. Accordingly, conforming changes need to be made throughout the regulations for consistency and clarity for both licensees and providers.

(2) For live presentation programs longer than one 50-minute class hour, the CBA currently grants CE credit for additional 25-minute segments (one-half of a 50-minute class hour). The CBA proposes to also grant CE credit for additional 10-minute segments (one fifth of a 50-minute class hour). The reduction to 10-minute increments is consistent with the *Standards* and will assist licensees by enabling them to take courses that both address their competency needs and meet CBA license renewal requirements.

#### **Section 88.2(b)**

The CBA proposes to correct a missing period after the subsection title “Group Internet-Based Program (Webcast).”

The CBA proposes to un-capitalize “group internet-based program” for consistency with other program names within the section that are not capitalized.

The CBA proposes to add “meet all of the following requirements:” to increase clarity of the requirements a provider of a group internet-based program must meet for acceptable continuing education under Section 88(d).

#### **Section 88.2(b)(1)**

The CBA proposes to amend Section 88.2(b)(1) relating to the measurement of class hours for group internet-based programs. Defining the credit allowed for the time of instruction segments ensures the licensee will know how much credit they receive for attending/participating in the course. Specifically, the CBA proposes the following:

For group internet-based programs composed of several segments, the CBA currently allows segments that are not less than 25 minutes to be added together to equal a full 50-minute class hour. The CBA proposes to reduce these 25-minute increments to 10-minute increments. Specifically, the proposal would amend “increments not less than 25 minutes” to “increments not less than 10 minutes.”

The reduction to 10-minute increments is consistent with the *Standards* and will assist licensees by enabling them to take courses that both address their competency needs and meet CBA license renewal requirements.

For group internet-based programs longer than one 50-minute class hour, the CBA currently grants CE credit for additional 25-minute segments (one-half of a 50-minute class hour). The CBA proposes to also grant CE credit for additional 10-minute segments (one fifth of a 50-minute class hour). The reduction to 10-minute increments is consistent with the *Standards* and will assist licensees in by enabling them to take courses that both address their competency needs and meet CBA license renewal requirements.

### **Section 88.2(b)(3)**

The CBA proposes to un-capitalize “group internet-based program” for consistency with other program names within the section that are not capitalized.

### **Section 88.2(c)**

The CBA proposes to amend the 88.2(c) subdivision title from “Self-Study” to “Self-Study and Adaptive Learning Self-Study.” This edit is reasonably necessary to clarify the requirements in subdivision 88.2(c) also pertain to adaptive self-study programs. The amendment to the subdivision title is consistent with the *Standards* that define adaptive self-study as a type of self-study program.

The nature of adaptive self-study programs allows licensees to complete the CE by means of various pathways. The pathways or customized learning activities are dependent on a computer algorithm, predictive analytics tool or learner-driven selections. The use of customized learning activities leads to content specifically tailored to individual learner needs thus contributing directly to the professional competence of a licensee in public practice.

The CBA proposes to add “meet all of the following requirements:” to increase clarity of the requirements a provider of a Self-Study and Adaptive Learning Self-Study program must meet for acceptable continuing education under Section 88(d).

### **Section 88.2(c)(1)(A) and (B)**

The CBA proposes to amend Section 88.2(c)(1)(A) and (B) relating to the calculation of CE credit for self-study programs when the total minutes of the self-study program are not equally divisible by 50 and also addresses amendments to the two methods that can be used to establish course credit (time). Currently, when the total minutes of the self-study program are not equally divisible by 50, the CBA rounds the CE credit down to the nearest one-half hour. Instead, the CBA proposes to round the CE credit down to the nearest 10-minute segment (one fifth of a 50-minute class hour) or 25-minute segment (one-half of a 50-minute class hour).

The reduction to 10-minute segment is consistent with the *Standards* and will assist licensees by enabling them to take courses that both address their competency needs and meet CBA license renewal requirements.

Specific to self-study programs, to accommodate the proposed 10-minute time segments, in instances where the self-study program are not equally divisible by 50, the

course time would be rounded to the nearest 10-minute segment (one fifth of a 50-minute class hour). Rounding down to the nearest recognized unit predates these proposed regulations. Only the unit measurement is changed.

The nature of adaptive self-study programs allows licensees to complete the CE by means of various pathways. The pathways or customized learning activities are dependent on a computer algorithm, predictive analytics tool, or learner-driven selections. The various pathways may lead to differing lengths of time a licensee will take to complete the CE.

For the purposes of this subdivision, the CBA proposes to add ‘by participants who are’ to further clarify that when a program is demonstrating average completion time, measured in 50-minute continuing education hours, the pre-testers must be current and unrestricted CPAs. The CBA proposes the addition of ‘unrestricted’ to safeguard the validity and integrity of the pre-testing process, by excluding those who are subject to an outstanding order, suspended, revoked, or otherwise restricted due to a disciplinary action by the CBA.

The proposed amendments outline a pre-testing process that utilizes active and unrestricted licensees to establish the credit (time) a self-study or adaptive self-study course is worth. Given the differing lengths of time an adaptive self-study course may take any one individual, the proposed number of licensees for the pre-testing process is seven compared to only three for self-study. Increasing the number of pre-testers for an adaptive learning self-study course will increase the precision of the estimated credit (time) the course is worth. Additionally, the proposed amendments allow for the calculation of course credit for self-study or adaptive self-study courses by way of word count. Given the differing word counts that will exist in adaptive self-study courses due to their multiple pathways, it is proposed that an average across the multiple pathways be utilized.

The proposed amendments to Section 88.2(c)(1)(A) and (B) related to the calculation of the CE credits for self-study and adaptive self-study programs, including the reduction to 10-minute segments and the use of pre-testing or word count methods to establish credit, are consistent with the *Standards*. This consistency ensures California licensees have access to CE programs developed by CE providers to conform to the national standards.

### **Section 88.2(c)(2)**

Current Section 88.2(c)(2) is proposed to be renumbered to Section 88.2(c)(3). The CBA proposes to amend Section 88.2(c)(2) to establish the minimum amount of CE credit that must be awarded prior to earning CE credit in the 10-minute increments and 25-minute increments described in Section 88.2(c)(1)(A) and (B). Specifically, the proposed amendments would require a minimum of one-half hour CE credit to be initially awarded to a participant; however, after the participant earns the first half hour credit, the self-study program may award CE credit in 10-minute segments (one fifth

hour of a 50-minute class hour), or 25-minute segments (one-half hour of a 50-minute class hour).

The requirement to set the initial amount of self-study credit at 30 minutes, before additional increments can be earned was included as part of the changes to the *Standards*, which are adhered to by most, if not all, accounting jurisdictions. Creating consistency between the CBA's continuing education provisions and the *Standards* assists licensees in by enabling them to take courses that both address their competency needs and meet CBA license renewal requirements.

From a learning perspective, it could be beneficial, as it relates to self-study courses, for licensees to establish a learning credit of a half-hour, prior to earning incremental credit in either 10-minute or 25-minute segments. Self-study courses are independently completed by the licensee, without participation from an instructor or in a group setting with other individuals. Establishing a strong base of knowledge to build on increments is important, thus supporting the need for an initial half-hour credit.

### **Section 88.2(c)(3), (c)(4), and (c)(5)**

The CBA proposes to renumber current Section 88.2(c)(2) to Section 88.2(c)(3), requiring each subsequent subdivision to also be renumbered. What is currently Section 88.2(c)(3) would become Section 88.2(c)(4) and so forth. Specifically, the renumbering of each subsection ensures the licensee or user of the subdivision will be able to easily find information and comply with the requirements set forth in this section.

### **Section 88.2(c)(3)**

In addition to the renumbering amendments, CBA proposes to amend this subsection to address advances in technology and effective learning models. The current regulations limit the way content knowledge can be assessed to only "questions." The CBA proposes to provide another means of assessing content knowledge, reinforcement tools. The addition of reinforcement tools will allow knowledge to be assessed using more sophisticated technological approaches such as drag-and-drop, rank order, matching, and guided structured decisions.

The CBA proposes feedback intervals for the various reinforcement tools that take into consideration the nature of the learning activity and the reinforcement tool. Adaptive, scenario-based learning activities rely on the learner making multiple decisions in the context of a specific scenario. In these cases, providing learners with the most correct answer after each decision would negate the multiple pathway approach the scenario is meant to achieve. Therefore, it would be most appropriate to provide feedback at the end of the learning activity or at irregular intervals. Whereas, drag-and-drop, rank order, and matching tools used in non-scenario based learning activities are more conducive to providing feedback as to the correct response immediately after the tool is completed and not at intervals (e.g., feedback provided immediately after a learner completes a rank order exercise).

The proposed amendments to subsection 88.2(c)(3) related to the use of reinforcement tools and establishing feedback intervals, are consistent with the *Standards*. This consistency ensures California licensees have access to CE programs developed by CE providers to conform to the national standards.

#### **Section 88.2(c)(3)(A)**

The CBA proposes to add this subsection to further clarify the importance of ‘when using questions’ as a basis for understanding the material presented, it is critical that the program provide evaluated feedback specific to each question. 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.

#### **Section 88.2(c)(6)**

The CBA proposed to amend subsection 88.2(c)(6) to include adaptive self-study programs. This change is reasonably necessary to ensure that the new CE program, adaptive self-study, is linked to the section that outlines CE provider requirements.

#### **Section 88.2(d)**

The CBA proposes to add Section 88.2(d) to establish the criteria required for nano learning programs to qualify as acceptable continuing education under Section 88(f)<sup>13</sup>. Defining the criteria for each nano learning program ensures CE providers develop courses that will contribute directly to the professional competence of a licensee in public practice, by identifying the criteria each program must follow to qualify. Specifically, the CBA proposes that, in order for nano learning program to qualify as acceptable CE, it must meet all of the following criteria:

- (1) Require a passing score of 100 percent on a test consisting of at least two questions. The test shall not include true/false type questions.

Given the time increment of a nano learning program, and that it is focused on a single subject, requiring a test completion rate of 100 percent ensures the licensee was focused and engaged in the program. True/false type questions lend themselves to “guessing” at the answer, whereas other types of questions require knowledge of the specific content of the course. Examples of other types of questions could include multiple choice, matching, or logical order.

- (2) Grant continuing education hours in a 10-minute segment (one fifth of a 50-minute class hour), based on duration of the program including the test.

As the CBA proposes to change other areas of its regulations to allow for CE credit in 10-minute increments (one fifth of a 50-minute class hour), it is being included as a

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<sup>13</sup> Section 88(f) describes CBA-qualifying nano learning programs.

requirement for nano learning to ensure consistency and clarity for both licensees and providers. Because the time length standard exists in the *Model Rules*, consistency with provider requirements across states allows licensees to have access to a broad range of continuing education opportunities that match their needs and the requirements of the Board.

(3) Meet the provider requirements for nano learning under Section 88.1(d).

To ensure licensees complete CE courses that will contribute directly to their professional competency, it is critical that providers meet minimum requirements as established in regulation. Further, this ensures consistency by requiring licensees to take courses that meet the provider requirements, regardless of the methodology.

### **Section 88.2(e) (Blended Learning)**

The CBA proposes to add Section 88.2(e) to establish the criteria required for a blended learning program to qualify as acceptable continuing education under Section 88(g)<sup>14</sup>. Defining the criteria ensures CE providers develop, and licensees select, courses that contribute directly to the professional competence of a licensee in public practice. Specifically, the CBA proposes that, in order for a blended learning program to qualify as acceptable CE, it must meet all of the criteria set forth below.

### **Section 88.2(e)(1)**

The CBA proposes to add this subsection to establish that a blended learning program must calculate CE credit using at least one of the methods described in Section 88.2(e)(1)(A), (B) and (C). Establishing methods to calculate CE credit ensures that CE credit is appropriately awarded to licensees.

As specified in Section 88.2(e)(1)(A), the blended learning program length must be measured by the actual program length in 50-minute class hours. This is necessary to create consistency with the *Standards* that are accepted by most state boards of accountancy.

Only the class hours or the equivalent, not participant hours for preparation or study time, will be used to measure CE hours. This is necessary to ensure accuracy when awarding credit to the participant.

For a blended learning program made up of several segments, each individual segment of not less than 10 minutes may be combined with other individual segments of not less than 10 minutes to equal a full 50-minute class hour. This is necessary to accommodate other methods of learning that have a course measurement of 10-minute increments.

For a blended learning program longer than one 50-minute class hour, the program must grant CE credit in additional 10-minute segments (one fifth of a 50-minute class hour), or 25-minute segments (one-half of a 50-minute class hour). The need for an

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<sup>14</sup> Section 88(g) describes CBA-qualifying blended learning programs.



overage calculation is to facilitate the award of credit in increments based on the learning methodology.

Including the program measurement of 50-minute class hours ensures consistency throughout the regulations. Also ensuring consistency with other regulatory requirements and to ensure licensees are receiving CE credit appropriately, the regulations prohibit class hours devoted to preparation or study time as this is undefined time, variable for each individual, and there is no established standard for tracking the time.

Further, as blended learning is based on a program using varying CE methodologies and delivery methods, their associated CE credit increments and calculations must be included.

As specified in Section 88.2(e)(1)(B), the blended learning program must demonstrate an average completion time, measured in 50-minute CE hours. This is necessary to ensure consistency with how providers calculate the amount of CE credit to award to licensees. Further, because most CE providers offer courses nationally (outside of California) this ensures consistency with what is required for the *Standards*.

Further, the completion time of the blended program must be done by having a minimum of three licensed CPAs in good standing possessing the appropriate level of knowledge in the subject matter of the program, pre-test the documentation simulating the manner in which the course will be completed. This is necessary because it establishes a reasonable and clear way to identify the completion time. This method of evaluating the course was chosen because to align with the methodology contained in the *Standards*.

Next, the pre-testing participants must be independent of the group that developed and/or are offering the course. This is necessary to prevent an inaccurate time calculation as those who developed the course will have a greater understanding of the content, questions, and answers, which could produce an inaccurate completion time based on prior knowledge of the content. Selecting participants independent of those who developed the course provides a more measurable completion time as the individuals have no prior knowledge of the content.

The pre-testing participants must also provide feedback on the level of difficulty of the course. This is necessary as it could impact the time increment and amount of credit to award.

The pre-testing must show the length of time spent by each pre-testing participant to complete the course. This is necessary because the length of time for each individual will help inform the amount of credit to award for course completion.

The CE credit granted to program participants must be rounded down to the nearest 10-minute segment (one fifth of a 50-minute class hour) or 25-minute segment (one-half of

a 50-minute class hour) when the total minutes of the program are not equally divisible by 50 and the program is longer than one 50-minute class hour. This calculation method was to align with the calculation method contained in the *Standards*, which are followed by a majority of CE providers who provide courses to California licensees.

For the purposes of this subdivision, “good standing” means that the pre-testing CPA has a current, active and unrestricted license to practice public accountancy in a United States jurisdiction.

As specified in Section 88.2(e)(1)(C), the blended learning program must demonstrate an average completion time measured in 50-minute CE hours, by dividing the number of words contained in the text of the required reading 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. This calculation method is contained as part of the *Standards* and followed by a majority of CE providers that offer courses to California licensees. Using this model ensures consistency with the *Standards*.

The number of words contained in the text does not include 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. This limitation is necessary to ensure consistency with the *Standards*.

The CE credit shall be rounded down to the nearest 10-minute segments (one fifth of a 50-minute class hour) or 25-minute segments (one-half of a 50-minute class hour) when the total minutes of the program are not equally divisible by 50 and the program is longer than one 50-minute class hour.

The calculation of CE credit as identified in Section 88.2(e)(1)(c) consistent both with the *Standards* and the requirements for existing qualifying methodologies in the CBA’s regulations, which creates consistency regarding the calculation of CE credit.

Consistency with the *Standards* is necessary because many CE providers offer their products nationally and, since the *Standards* are used throughout the country, often conform their products to the *Standards*. The CBA proposes to model the regulations addressed in this rulemaking after the *Standards* to assure that a variety of alternatives are available to its licensees in complying with CE requirements.

### **Section 88.2(e)(2)**

Pursuant to Section 87(b), CE courses in ethics must be a minimum of one hour as described in Section 88.2. The CBA proposes to add Section 88.2(e) to require that a blended learning program on the topic of ethics be a minimum of one 50-minute class hour. Should the course be comprised of multiple subject areas as described in Section 87(a)(2)<sup>15</sup> and at least one of the subjects is ethics, the components specific to ethics

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<sup>15</sup> Section 87(a)(2) describes the required CE in technical subject areas.

must be a minimum of one 50-minute class hour. This is necessary to ensure consistency with other delivery methods and to be consistent with the requirements outlined in Section 87(b).

### **Section 88.2(e)(3)**

The CBA proposes to establish that a blended learning program must initially award a minimum of one hour of CE credit, and after the first hour credit has been earned, a blended learning program may award credit in 10-minute increments (one fifth of a 50-minute class hour) or 25-minute increments (one-half of a 50-minute class hour).

Credits awarded in 10-minute increments for a nano learning program would be required to comply with Section 88(f)(3)<sup>16</sup>.

The awarding of CE credit as identified in Section 88.2(e)(3) is consistent with the *Standards*. Consistency with the *Standards* is necessary because CE providers offer their products nationally and, since the *Standards* are used throughout the country, often conform their products to the *Standards*. The CBA proposes to model the regulations addressed in this rulemaking after the *Standards* to assure that a variety of alternatives are available to its licensees in complying with CE requirements.

### **Section 88.2(e)(4)**

The CBA proposes that in order for a blended learning program to qualify as acceptable CE, the program must meet the provider requirements for blended learning under Section 88.1(e).

These requirements are consistent with the *Standards*, as discussed above.

## **5. Amend CCR Section 89 (Control and Reporting)**

The proposed amendments would establish the control and reporting protocols for self-study and adaptive learning self-study, nano, and blended CE programs. This is critical to ensure that licensees, who complete courses with these new CE programs that contribute directly to the professional competence of a licensee in public practice, can count the CE towards the renewal of their California CPA license. In addition, general changes were made to the proposed regulations to include grammatical edits, revising gender-specific pronouns to be gender neutral, and renumbering and/or re-lettering to reflect deletions or additions.

### **Section 89(a)**

The CBA proposes to add “all of,” to increase clarity of the requirements a licensee shall disclose for courses or programs claimed as qualifying continuing education hours.

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<sup>16</sup> Section 88(f)(3) proposes to preclude nano learning programs from awarding CE credit for ethics, prevention, detection and/or reporting of fraud affecting financial statements, and a regulatory review course.

**Section 89(a)(4)**

The CBA proposes to amend Section 89(a)(4) to include nano learning, blended learning, and adaptive self-study programs to the methods of study that a licensee must disclose when claiming courses as qualifying continuing education. Disclosure of study method on the license renewal form ensures the CBA can, if necessary, verify the identified course and methodology and ensure specified methods of study don't exceed what is allowable.

The CBA proposes to un-capitalize "group internet-based program" for consistency with other program names within the section that are not capitalized.

**Section 89(a)(1), 89(a)(2)**

The CBA proposes to add the ending periods in this list to be consistent with the other items in the Section 89(a).

**Section 89(a)(4)**

The CBA proposes to add an ending period to this item. This amendment is necessary to ensure that this is consistent with the other items in the Section 89(a). This non-substantive edit is being proposed following CBA approval of the regulatory text and incorporated forms on March 25, 2022.

**Section 89(b)**

The CBA proposes to replace "his/her" with the gender-neutral term "their" for the reasons described in 87(e), above.

**Section 89(c)(1), 89(c)(2), 89(c)(3), 89(c)(4)**

The CBA proposes to add the ending periods in this list to be consistent with other items in the 89(c).

**Section 89(d)**

The CBA proposes to amend subdivision 89(d) to include adaptive self-study courses to the requirement that licensees who utilize self-study courses must retain a receipt, or its equivalent, and certification of completion, or its equivalent, for a period of four years. The retention period is being proposed to be consistent with other self-study course retention periods and to ensure that the CBA can, if necessary, verify the completion of an adaptive self-study course.

The CBA proposes to add "all of," to increase clarity of the requirements a licensee shall disclose for continuing education credit claimed for completing a self-study or adaptive learning self-study course.

**Section 89(d)(5)**

The CBA proposes to replace "continued" with "continuing" as it is a grammatical error.

### **Section 89(d)(7)**

The CBA proposes to add subdivision (d)(7) to Section 89 to include a requirement that the licensee obtain and retain a certificate of completion or its equivalent that includes verification by a program provider representative, such as a signature or seal, in addition to the other required elements in (d)(1) through (d)(6), when completing a self-study course.

It is critical for a licensee to receive documentation of the CE course they attend and/or complete. To ensure the validity, the documentation must include a verification by the program provider in addition to other specified requirements.

Without the provider issuing this documentation, containing the specified information, there would be no way to confirm completion of a CE course and the licensee could not provide evidence that they met the required CE hours for license renewal. Further, these requirements are consistent with existing regulations in CCR 88.1 regarding provider requirements.

### **Section 89(e) and (f)**

The CBA proposes to add subdivisions (e) and (f) to Section 89 to establish the requirement that a licensee claiming CE credit for a nano learning program (Section 88(e)) and a blended learning program (Section 88(f)) must obtain and retain for a period of four years: (1) a receipt or its equivalent documenting the date of purchase or enrollment in the program; and (2) a certificate of completion or its equivalent, which discloses seven pieces of information. Subdivisions are being added for nano learning and blended learning to separate the retention requirements as both learning methods are distinct from the existing methods described in existing section 89(b) through (e). Separating the requirements also allows for greater future flexibility in requirements should the learning methods require different records.

Specifically, the certificate of completion would be required to disclose 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).
- (7) Verification by a program provider representative, such as a signature or seal.

The seven pieces of information requested on the certification of completion are necessary as follows:

- 1) The name of the licensee is required to identify who (what licensee) took the course. Absent the name, any licensee could have a certificate and claim they completed the course.

- 2) The provider name is necessary for CBA audit purposes or in the event additional information is needed regarding the course.
- 3) The title or description is necessary to ensure what subject matter is claimed (see item #6) is consistent with the description of the course.
- 4) The date of completion is critical to ensure the course was taken within the required timeframes and is recognized correctly during the license renewal process.
- 5) The number of CE hours granted is necessary for the licensee to ensure they meet specified CE requirements (for example, four hours of ethics, two hours of regulatory review, etc.).
- 6) Specifying the subject areas enables the licensee to demonstrate the completion of CE in a particular subject matter (for example, regulatory review, auditing, etc.). This will provide sufficient evidence when attesting to the completion of the continuing education requirements for licensure renewal.
- 7) It is also critical for a licensee to receive documentation that has a verification (signature or seal) to ensure its validity. The verification and issuance by the program provider representative ensures the authenticity of the certificate.

Subsequent subdivisions are renumbered, (e) to (g), (f) to (h), (g) to (i), (h) to (j), (i) to (k), (j) to (l), (k) to (m), and (l) to (n). The renumbering ensures the licensee or user will be able to easily find information and comply with the requirements.

#### **Section 89(g)(1), 89(g)(2), 89(g)(3), 89(g)(4), 89(g)(5)**

The CBA proposes to add ending periods in this list to be consistent with the other items in the Section 89(g).

#### **Section 89(h)**

The CBA proposes to add “all of,” to increase clarity of the requirements for credit claimed for writing continuing education instructional materials.

#### **Section 89(h)(1), 89(h)(2), 89(h)(3), 89(h)(4)**

The CBA proposes to add ending periods in this list to be consistent with other items in the Section 89(h).

#### **Section 89(i)**

The CBA proposes to add “all of,” to increase clarity of the requirements for credit claimed for published articles and books.

#### **Section 89(i)(1), 89(i)(2), 89(i)(3), 89(i)(4), 89(i)(5), 89(i)(6)**

The CBA proposes to add ending periods in this list to be consistent with other items in the Section 89(i).

#### **Section 89(k)**

The CBA proposes to remove commas and insert periods to increase clarity by matching the punctuation used throughout this section.



The CBA proposes to add “all of,” to increase clarity of the requirements for credit claimed for performing a technical review of continuing education instructional materials.

#### **Section 89(n)**

The CBA proposes to replace “his/her” with the gender-neutral term “their” for the reasons described in 87(e), above.

#### **Note to Section 89**

The CBA proposes to revise the Reference section of the Note to Section 89 to include Business and Professions Code Section 5026. This revision is included to connect Section 5026, noting the Legislature’s intent that it is in the public interest to require continuing education for the Board’s licensees, to Section 89, implementing the reporting and recordkeeping of that continuing education.

### **6. Amend CCR Section 90 (Exceptions and Extensions)**

#### **Section 90(d)**

The CBA proposes to amend subdivision 90(d) to conform with the regulatory amendments adopted in 2012, effective January 1, 2014. In the 2012 rulemaking, the CBA amended subdivision 87(e) and added subdivision 87(f) to require that licensees complete four hours of CE specifically related to the prevention, detection, and/or reporting of fraud affecting financial statements, instead of eight hours. The CBA also intended at that time that the same amendment be made to subdivision 90(d); however, due to an oversight, amendments were only made to subdivision 87(e). The proposed amendment to subdivision 90(d) addresses this oversight.

The proposed change in subdivision 90(d) would correct the amount of fraud CE licensees would need to complete for their next renewal cycle if they received an extension to complete their CE requirements pursuant to Section 90 to conform with the requirement in subdivision 87(f)

This amendment will clarify for licensees that if they qualify for an extension of time to complete their CE, pursuant to subdivision 90(d), that they will only need to complete four hours of Fraud CE (as defined in section 87(f)) and not eight hours.

Additionally, a correction is being proposed to subdivision 90(d). Specifically, the CBA proposes to correct a cross reference in subdivision 90(d). Currently, the subdivision incorrectly references subdivision 87(e) when it should be referencing subdivision 87(f).

#### **Sections 90(a)(1) and 90(a)(2)**

The CBA proposes to remove the ending semi-colons in this list to be consistent with other items in the 90(a) list that are not sentences.

## Note to Section 90

The CBA proposes to revise the Reference section of the Note to Section 90 to include Business and Professions Code Section 5026 and 5027. This revision is included to connect Section 5026, noting the Legislature's intent that it is in the public interest to require continuing education for the Board's licensees, to Section 90, implementing exemptions and extensions to continuing education requirements. The revision also connects Section 5027, the Board's broad rulemaking authority, to the same implementation.

## Underlying Data

Technical, theoretical or empirical studies, reports, or documents relied upon:

- Minutes of the March 25, 2022 CBA Meeting
- March 25, 2022: CBA Item XV.A.3 – Discussion and Possible Action to Consider Changes to Previously Proposed Text and Reauthorization of a Regular Rulemaking to Amend California Code of Regulations, Title 16, Sections 87 – Basic Requirements; 88 – Programs which Qualify; 88.1 – Provider Requirements; 88.2 – Program Measurements; 89 – Control and Reporting; and 90 – Exceptions and Extensions
- Minutes of the July 23, 2020 CBA Meeting
- July 23, 2020: CBA Item I.K. – Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations, Sections 87 – Basic Requirements; 88 – Programs Which Qualify; 88.1 – Provider Requirements; 88.2 – Program Measurements; 89 – Control and Reporting; and 90 – Exceptions and Extensions
- Minutes of the March 22-23, 2018 CBA Meeting
- March 22-23, 2018: CBA Item X.A.2. – Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations, Sections 87 and 88, Continuing Education Rules (*Model Rules for Continuing Professional Education*, Article Three, is included as an attachment)
- Minutes of the September 14-15, 2017 CBA Meeting
- September 14-15, 2017: CBA Item IX.C.3. – Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 90 – Exceptions and Extensions
- Minutes of the March 23-24, 2017 CBA Meeting
- March 23-24, 2017 CBA Item VIII.A.2. – Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations, Sections 80-94, Continuing Education Requirements for Nano and Blended Learning Programs and Program Measurements (*Statements on Standards of Continuing Education (CPE) Programs* are included as an attachment)
- Minutes of the November 17-18, 2016 CBA Meeting
- November 17-18, 2016: Discussion Regarding the National Association of State Boards of Accountancy and American Institute of Certified Public Accountants Release of the Final Version of the Statement on Standards for Continuing

## Professional Education Programs and Possible Changes to Title 16, California Code of Regulations, Sections 80-94, Continuing Education Rules

### Business Impact

The CBA has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The CBA presently requires certified public accountants to complete 80 hours of CE each two-year renewal cycle. The proposed amendments increase the flexibility for licenses to complete the required CE. Adding blended, nano learning, and adaptive self-study programs contributes directly to the professional competence of a licensee in public practice. However, because the regulations do not require CE providers to provide these courses, there is no economic impact to the state.

### Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the proposed changes are not of sufficient magnitude to create or eliminate jobs or businesses. The CBA presently requires individual licensees to complete 80 hours of CE each two-year renewal cycle. Costs associated with changes to the continuing education should be minor and absorbable since the licensee still must complete 80 total hours of CE during each renewal period.
- It will not create new business or eliminate existing businesses within the State of California because the proposed changes will not be of sufficient magnitude to have the effect of creating or eliminating businesses. Costs associated with changes to the continuing education should be minor and absorbable since the licensee still must complete 80 total hours of CE during each renewal period.
- It may affect the expansion of businesses currently doing business within the State of California because the proposed changes may encourage program providers that are not currently developing nano, blended, or adaptive self-study learning programs to do so. However, the proposal will not affect the expansion of public accountancy firms or licensees currently doing business within the State because the proposed changes will not be of sufficient magnitude to have the effect of creating or eliminating businesses. Costs associated with changes to the continuing education should be minor and absorbable since the licensee still must complete 80 total hours of CE during each renewal period.
- This regulatory proposal benefits the health and welfare of California residents because it will help ensure licensees providing public accountancy services to Californians have additional options and guidance when completing their CE requirements.

- This regulatory proposal does not affect worker safety because it has nothing to do with worker safety.
- This regulatory proposal does not affect the state's environment because it has nothing to do with the environment.

### Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

### Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific. Further, there is no adverse impact on small businesses; for this reason, no description of reasonable alternatives to such impacts are discussed.

Set forth below is the alternative considered and the reason the alternative was rejected:

- The alternative considered was to maintain the status quo. The CBA rejected this alternative because it is required to establish its CE requirements in a manner to assure that a variety of alternatives are available to licensees and taking cognizance of specialized areas of practice. These regulations establish a variety of alternatives using current technology and takes cognizance of specialized areas of practice. Further, the regulations add flexibility and contribute directly to the professional competence of a licensee in public practice. In order for the CBA to allow its licensees to avail themselves to new methods of instruction in completing their CE requirements to assure reasonable currency of knowledge as a basis for a high standard of practice by licensees, the CBA needed to amend its regulations.

CBA welcomes comments from the public.