



## California Ethics for CPAs: Regulatory Review

*Rod Redding and Western CPE Contributing Editors*

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**CALIFORNIA BUSINESS AND PROFESSIONS CODE**  
**Division 3- Professions and Vocations Generally**  
**Chapter 1- Accountants**

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## **Article 1 – Administration**

### **5000. Existence of Board of Accountancy (Repealed January 1, 2020)**

(a) There is in the Department of Consumer Affairs the California Board of Accountancy, which consists of 15 members, 7 of whom shall be licensees, and 8 of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

(b) The Governor shall appoint four of the public members, and the seven licensee members as provided in this section. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint two public members. In appointing the seven licensee members, the Governor shall appoint individuals representing a cross section of the accounting profession.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

(d) Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature. However, the review of the board shall be limited to reports or studies specified in this chapter and those issues identified by the appropriate policy committees of the Legislature and the board regarding the implementation of new licensing requirements.

#### **5000.1. Public Protection Priority**

Protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

#### **5000.5. Public Board Members**

No public member shall be a current or former licensee of the board or an immediate family member of a licensee, or be currently or formerly employed by a public accounting firm, bookkeeping firm, or firm engaged in providing tax preparation as its primary business, or have any financial interest in the business of a licensee. Each public member shall meet all of the requirements for public membership on the board as set forth in Chapter 6 (commencing with Section 450) of Division 1.

### **5001. Board Members Qualifications and Oath**

(a) Except as provided in subdivision (b), each member of the board, except the public members, shall be actively engaged in the practice of public accountancy and shall have been so engaged for a period of not less than five years preceding the date of his appointment. Each member shall be a citizen of the United States and a resident of this state for at least five years next preceding his appointment, and shall be of good character. Within 30 days after their appointment, the members of the board shall take and subscribe to the oath of office as prescribed by the Government Code and shall file the same with the Secretary of State.

(b) One licensee member appointed by the Governor may be an active educator within a program that emphasizes the study of accounting within a college, university, or four-year educational institution.

### **5002. Board Members Tenure**

Each member shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring shall be filled by appointment for the unexpired term of a person licensed in the same capacity as the person being replaced. No person shall serve more than two terms consecutively. The Governor shall remove from the board any member, except a public member, whose permit to practice has become void, revoked or suspended. The Governor may, after hearing, remove any member of the board for neglect of duty or other just cause.

### **5003. Board Officers**

The officers of the board are a president, vice president and a secretary-treasurer.

### **5004. Tenure of Officers**

The president, vice president, and secretary-treasurer shall be elected by the board for a term of one year from among its members at the time of the annual meeting. The newly elected president, vice president, and secretary-treasurer shall assume the duties of their respective offices at the conclusion of the annual meeting at which they were elected.

### **5006. Continuance in Office of Board Officers**

The officers of the board shall continue in office until their successors are elected and qualify.



### **5007. Duties of Officers**

The president shall preside at all meetings of the board, and in the event of his absence or inability to act, the vice president shall preside. Other duties of the president, vice president, and the duties of the secretary-treasurer, shall be such as the board may prescribe.

### **5008. Reports Prepared by Board**

The board shall, from time to time, but not less than twice each year, prepare and distribute to all licensees, a report of the activities of the board, including amendments to this chapter and regulations adopted by the board, and may likewise distribute reports of other matters of interest to the public and to practitioners.

### **5009. Register of Licensees**

The board shall compile and maintain, or may have compiled and maintained on its behalf, a register of licensees that contains information that the board determines is necessary for the purposes for which the board was established. The board shall make the register available to any licensee and to the public.

### **5010. Regulations**

The board may adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the orderly conduct of its affairs and for the administration of this chapter. The regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

### **5011. Offices of the Board**

The board shall designate the location of its principal office and may establish branch offices in other locations.

### **5012. Board Seal**

The board shall have a seal.

### **5013. Board Records and Use in Evidence**

The board shall keep records of all proceedings and actions by and before the board and before its committees. In any proceeding in court, civil or criminal, copies of those records certified as correct by the executive officer of the board under seal of the board shall be admissible in evidence and shall be prima facie evidence of the correctness of the contents thereof.

## **5015. Employees of Board**

The board may employ clerks, examiners and, except as provided by Section 159.5, other assistants in the performance of its duties, and pay salaries and necessary expenses.

### **5015.6. Executive Officer; Powers and Duties (Repealed January 1, 2020)**

The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

## **5016. Board Meetings and Quorum**

A majority of the board shall constitute a quorum for the transaction of any business at any meeting of the board. Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). The board shall meet at the call of the president and executive officer, but not less than twice each year. Any two members of the board may request the executive officer to call a special meeting, and the executive officer, upon receiving that notice, shall call a meeting pursuant to the procedure prescribed herein.

## **5017. Executive Sessions and Open and Public Meetings**

All meetings of the board shall be open and public, except that the board may hold executive sessions to deliberate on the decision to be reached upon the evidence introduced in a proceeding conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government Code.

The members of the board may hold executive sessions to prepare, approve, grade, or administer examinations and shall have jurisdiction or vote over these functions of preparing, approving, grading, or administering examinations in executive session as provided for in Section 11126 of the Government Code.

### **5017.1. Posting Minutes on the Internet**

The board shall post, within 10 days of board approval, the finalized minutes from meetings of the board that are open and public pursuant to Section 5017 on the board's Internet Web site. The minutes shall remain on the board's Internet Web site for at least

three years. Providing a link on the Internet Web site to the minutes shall satisfy this requirement.

#### **5017.5. Webcasting Meetings**

(a) The board shall provide a live audio or video broadcast, on its Internet Web site, of each of its board meetings that are open and public.

(b)(1) If technical failure prevents the board from providing a live broadcast as specified in subdivision (a), that failure shall not constitute a violation of this section if the board exercised reasonable diligence in providing a live broadcast.

(2) Failure to provide a live broadcast of its board meetings due to technical failure shall not prohibit the board from meeting and taking actions.

(c) The recording of the live audio or video broadcast shall remain on the Internet Web site for at least three years. Providing a link on the Internet Web site to the recording of the live audio or video broadcast shall satisfy this requirement.

#### **5018. Professional Rules and Standards**

The board may by regulation, prescribe, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession. In addition to the requirements contained in Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code, a copy of the rules shall be mailed to every holder of a license under this chapter at least 30 days prior to a date named for a public hearing held for the purpose of receiving and considering objections to any of the proposed provisions. Every licensee of the California Board of Accountancy in this state shall be governed and controlled by the rules and standards adopted by the board.

#### **5019. Rules Printed on Applications**

Every applicant, when subscribing to an application for certificate or registration, shall acknowledge the fact that the applicant has read and understands the rules of professional conduct adopted by the board.

#### **5020. Enforcement Advisory Committee**

The board may, for the purpose of obtaining technical expertise, appoint an enforcement advisory committee of not more than 13 licensees to provide advice and assistance related to the functions specified in Section 5103. The committee shall act only in an advisory capacity, shall have no authority to initiate any disciplinary action against a licensee, and shall only be authorized to report its findings from any investigation or hearing conducted

pursuant to this section to the board, or upon direction of the board, to the executive officer.

### **5021. Tenure of Enforcement Advisory and Qualifications Committee Members**

The members of the enforcement advisory and qualifications committees shall hold office for two years.

### **5022. Qualifications Committee Reports and Appeals from Its Actions**

The qualifications committee shall make recommendations and forward its report to the board for action on any matter on which it is authorized to act. An applicant for registration as a certified public accountant who is aggrieved by any action taken by the committee with respect to his or her qualifications may appeal to the board in accordance with rules or regulations prescribed by the board. The board on the appeal may give an oral or written examination as an aid in determining whether the applicant is qualified under the terms of this chapter.

### **5023. Qualifications Committee**

The board may establish a qualifications committee of its own certified public accountant members or other certified public accountants of the state in good standing, to perform the following advisory duties:

(a) To examine the qualifications of all applicants for the license of certified public accountant.

(b) To recommend to the board applicants for the certified public accountant license who fulfill the requirements of this chapter.

### **5024. Other Committees**

The board may create and appoint advisory committees, consisting solely of board members or consisting of board members and other persons who are not board members, for the purpose of making recommendations on matters as may be specified by the board.

### **5025.1. Accountants to Assist in Investigations**

(a) The board may contract with and employ certified public accountants and public accountants as consultants and experts to assist in the investigation and prosecution of judicial and administrative matters.

(b) Contracts made pursuant to this section are not subject to Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code,

except that the board shall apply the standards set forth in Section 19130 in awarding personal service contracts under this section.

(c) Notwithstanding any other provision of law, the board may contract with these consultants and experts on a sole source basis.

(d) If a person, not a regular employee of the board, is hired or under contract to provide expertise to the board in the evaluation of the conduct of a licensee, and that person is named as a defendant in a civil action for defamation, tortious interference with prospective business advantage, or other civil causes of action directly resulting from opinions rendered, statements made, or testimony given to the board, its committees, staff, legal counsel, or other representatives, or in any proceeding instituted by the board or to which the board is a party, the board shall provide for representation required to defend that person in that civil action and shall indemnify that person for any judgment rendered against him or her. This right of defense and indemnification shall be the same as, and no greater than, the right provided to a public employee pursuant to Section 825 of the Government Code. Nothing herein shall be construed as expanding or limiting any immunity from liability otherwise provided by law.

(e) On or before June 1 of each year, the board shall report to the appropriate policy and fiscal committees of each house of the Legislature the terms of the contract or contracts entered into each fiscal year pursuant to this section. The report shall include the cost, services, terms and duration provided under each contract, the identity of the firms or individuals awarded any contract, and data demonstrating the cost effectiveness of the board's sole-source contracting in the investigation and prosecution of the board's enforcement programs.

## **5025.2. Expenditure Authority - Enforcement and Litigation**

(a) The Legislature finds that there are occasions when the California Board of Accountancy urgently requires additional expenditure authority in order to fund unanticipated enforcement and litigation activities. Without sufficient expenditure authority to obtain the necessary additional resources for urgent litigation and enforcement matters, the board is unable to adequately protect the public. Therefore, it is the intent of the Legislature that, apart from, and in addition to, the expenditure authority that may otherwise be established, the California Board of Accountancy shall be given the increase in its expenditure authority in any given current fiscal year that is authorized by the Department of Finance pursuant to the provisions of subdivision (b) of this section, for costs and services in urgent litigation and enforcement matters, including, but not limited to, costs for professional and consulting services and for the services of the Attorney General and the Office of Administrative Hearings.

(b) Notwithstanding Control Section 27.00 of the annual Budget Act, Section 11006 of the Government Code, and the amount listed in the annual Budget Act for expenditure, the Department of Finance shall authorize up to two million dollars (\$2,000,000) in additional

expenditures for the California Board of Accountancy upon a showing by the board that those funds are necessary for public protection and that the shortfall was not anticipated. These additional expenditures shall be payable from the Accountancy Fund for purposes of the board's litigation or enforcement activities in any given current fiscal year.

### **5025.3. Encumbrances for Contracts - Period of 24 Months**

(a) Whenever the board enters into a contract for litigation or enforcement purposes, including, but not limited to, contracts pursuant to Section 5025.1, funds may be encumbered in the fiscal year the contract is executed and expended at any time during the subsequent 24 months commencing with the last day of the fiscal year in which the contract is executed.

(b) Notwithstanding Section 13340 of the Government Code, funds encumbered for a contract pursuant to subdivision (a) of this section are continuously appropriated without regard to fiscal year, however, the appropriation is limited to the period for which funds are authorized to be encumbered under subdivision (a).

## **Article 1.5 - Continuing Education**

### **5026. Continuing Education**

The Legislature has determined it is in the public interest to require that certified public accountants and public accountants licensed under provisions of this chapter comply with continuing education requirements adopted by the board as a prerequisite to the renewal of public accountancy licenses on and after December 31, 1974.

### **5027. Continuing Education Regulations**

The board shall by regulation prescribe, amend, or repeal rules including, but not limited to, all of the following:

(a) A definition of basic requirements for continuing education.

(b) A licensee who plans, directs, or approves any financial or compliance audit report on any governmental agency shall complete a minimum of 24 hours of qualifying continuing education in the area of governmental accounting and auditing or related subjects during the two-year license renewal period.

(c) A licensee who provides audit, review, other attestation services, or issues compiled financial statement reports shall, during the two-year license renewal period, complete a minimum of 24 hours of qualifying continuing education in the area of accounting and auditing related to reporting on financial statements.

(d) A licensee with a valid permit to practice public accountancy shall, within a six-year period, complete a continuing education course on the provisions of this chapter and the rules of professional conduct.

(e) A licensee on inactive status shall complete the continuing education course required by subdivision (d) prior to reentering public practice.

(f) A delineation of qualifying programs for maintaining competency.

(g) A system of control and compliance reporting.

In exercising its power under this section for the interests of consumer protection, the board shall establish standards which will assure reasonable currency of knowledge as a basis for a high standard of practice by licensees. The standards shall be established in a manner to assure that a variety of alternatives are available to licensees to comply with the continuing education requirements for renewal of licenses and taking cognizance of specialized areas of practice.

#### **5028. Exceptions from Continuing Education Requirements**

The board may, in accordance with the intent of this article, make exceptions from continuing education requirements for licensees not engaged in public practice, or for reasons of health, military service, or other good cause; provided, however, that if the licensee returns to the practice of public accounting he or she shall meet such continuing education requirements as the board may determine.

#### **5029. Continuing Education Committee**

The board may establish an advisory continuing education committee of nine members, six of whom shall be certified public accountants, two of whom shall be board members, one of whom is a public member of the board, and one of whom shall be a public accountant, to perform any of the following duties:

(a) To evaluate programs and advise the board as to whether they qualify under the regulations adopted by the board pursuant to subdivision (f) of Section 5027. Educational courses offered by professional accounting societies shall be accepted by the board as qualifying if the courses are approved by the committee as meeting the requirements of the board under the regulations.

(b) To consider applications for exceptions as permitted under Section 5028 and provide a recommendation to the board.

(c) To consider other advisory matters relating to the requirements of this article as the board may assign to the committee.

## **Article 2 - General Powers and Definitions**

### **5030. "Board" Defined**

Board means the California Board of Accountancy.

### **5031. "Committee" Defined**

Committee means any committee created under the provisions of Article 1 (commencing at Section 5000).

### **5032. "State" Defined**

State when not specifically referring to this State, means any state, territory or insular possession of the United States, or the District of Columbia.

### **5033. "Certified Public Accountant" Defined**

Certified public accountant means any person who has received from the board a certificate of certified public accountant and who holds a valid permit to practice under the provisions of this chapter.

#### **5033.1. "License" includes "Certificate"**

For purposes of this chapter, license shall also include certificate.

### **5034. "Public Accountant" Defined**

Public accountant means any person who has registered with the board as a public accountant and who holds a valid permit for the practice of public accountancy.

### **5035. "Person" Defined**

Person includes individual, partnership, firm, association, limited liability company, or corporation, unless otherwise provided.

#### **5035.1. "Firm" Defined**

Firm means a sole proprietorship, a corporation, or a partnership.

#### **5035.2. "Client" Defined**

Client, as used in any context in this chapter, means any person for whom public accountancy services are performed or to whom financial products, financial services, or securities are sold or provided at the licensee's public accountancy practice or through



referral to any other location or business in which the certified public accountant has a material interest.

### **5035.3. "Firm" Includes**

For purposes of subdivision (b) of Section 5050 and Sections 5054 and 5096.12, firm includes any entity that is authorized or permitted to practice public accountancy as a firm under the laws of another state.

### **5036. Preparation of State Documents**

Whenever any statute requires that any reports, financial statements, and other documents for any department, division, board, commission, or agency of this state be prepared by certified public accountants, the requirement shall be construed to mean a licensee or licensees with a valid permit to practice public accountancy.

### **5037. Ownership of Accountants' Work Papers**

(a) All statements, records, schedules, working papers and memoranda made by a licensee or a partner, shareholder, officer, director, or employee of a licensee, incident to, or in the course of, rendering services to a client in the practice of public accountancy, except the reports submitted by the licensee to the client and except for records which are part of the client's records, shall be and remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No such statement, record, schedule, working paper, or memoranda shall be sold, transferred, or bequeathed, without the consent of the client or his or her personal representative or assignee, to anyone other than one or more surviving partners or stockholders or new partners or stockholders of the licensee, or any combined or merged firm or successor in interest to the licensee.

(b) A licensee shall furnish to his or her client or former client, upon request and reasonable notice:

(1) A copy of the licensee's working papers, to the extent that those working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client.

(2) Any accounting or other records belonging to, or obtained from or on behalf of, the client which the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of documents of the client when they form the basis for work done by him or her.

### **5037.1. Construction of Licensees' Obligations Under Section 5037**

Nothing in subdivision (k) of Section 17406 of the Financial Code or subdivision (a) of Section 17406.1 of the Financial Code shall be construed to impair or impede a licensee's rights, duties, and obligations under Section 5037.

### **5038. Partial Invalidity of Chapter**

If any provisions of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

### **5040. Voluntary Taxpayer Contributions**

The Legislature finds and declares that it is important to inform taxpayers that they may make voluntary contributions to certain funds or programs, as provided on the state income tax return. The Legislature further finds and declares that many taxpayers remain unaware of the voluntary contribution check-offs on the state income tax return. Therefore, it is the intent of the Legislature to encourage all persons who prepare state income tax returns, including accountants, to inform their clients in writing, prior to the completion of any state income tax return, that they may make a contribution to any voluntary contribution check-off on the state income tax return if they so choose.

## **Article 3 - Application of Chapter**

### **5050. Practice Without Permit, Temporary Practice**

(a) Except as provided in subdivisions (b) and (c) of this section, in subdivision (a) of Section 5054, and in Section 5096.12, no person shall engage in the practice of public accountancy in this state unless the person is the holder of a valid permit to practice public accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096).

(b) Nothing in this chapter shall prohibit a certified public accountant, a public accountant, or a public accounting firm lawfully practicing in another state from temporarily practicing in this state incident to practice in another state, provided that an individual providing services under this subdivision may not solicit California clients, may not assert or imply that the individual is licensed to practice public accountancy in California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction, as defined in subdivision (c) of Section 19753 of the Revenue and Taxation Code. A firm providing services under this subdivision that is not registered to practice public accountancy in California may not solicit California clients, may not assert or imply that the firm is licensed to practice public accountancy in

California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction, as defined in subdivision (c) of Section 19753 of the Revenue and Taxation Code. This subdivision shall become inoperative on January 1, 2011.

(c) Nothing in this chapter shall prohibit a person who holds a valid and current license, registration, certificate, permit, or other authority to practice public accountancy from a foreign country, and lawfully practicing therein, from temporarily engaging in the practice of public accountancy in this state incident to an engagement in that country, provided that:

(1) The temporary practice is regulated by the foreign country and is performed under accounting or auditing standards of that country.

(2) The person does not hold himself or herself out as being the holder of a valid California permit to practice public accountancy or the holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096).

#### **5050.1. Consent to Board's Jurisdiction**

(a) Any person that engages in any act that is the practice of public accountancy in this state consents to the personal, subject matter, and disciplinary jurisdiction of the board. This subdivision is declarative of existing law.

(b) Any person engaged in the practice of public accountancy under subdivision (a) is deemed to have appointed the regulatory authority of the state or foreign jurisdiction that issued the person's permit, certificate, license or other authorization to practice as the person's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by or before the board against or involving that person.

#### **5050.2. Discipline of Out-of-State or Foreign Accountant or Firm**

(a) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the holder of an authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 for any act that would be a violation of this code or grounds for discipline against a licensee or holder of a practice privilege, or grounds for denial of a license or practice privilege under this code. The provisions of the Administrative Procedure Act, including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board shall apply to this section. Any person whose authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 has been revoked may apply for reinstatement of the authorization to practice under subdivision (b) or (c) of Section 5050, subdivision (b) of Section 5054, or Section 5096.12 not less than one year after the effective date of the board's decision

revoking the authorization to practice unless a longer time, not to exceed three years, is specified in the board's decision revoking the authorization to practice.

(b) The board may administratively suspend the authorization of any person to practice under subdivision (b) or (c) of Section 5050, subdivision (a) of Section 5054, or Section 5096.12 for any act that would be grounds for administrative suspension under Section 5096.4 utilizing the procedures set forth in that section.

### **5051. Practice of Public Accountancy**

Except as provided in Sections 5052 and 5053, 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.

The activities set forth in subdivisions (f) to (i), inclusive, are “public accountancy” only when performed by a certified public accountant or public accountant, as defined in this chapter.

A person is not engaged in the practice of public accountancy if the only services he or she engages in are those defined by subdivisions (f) to (i), inclusive, and he or she does not hold himself or herself out, solicit, or advertise for clients using the certified public accountant or public accountant designation. A person is not holding himself or herself out, soliciting, or advertising for clients within the meaning of this section solely by reason of displaying a CPA or PA certificate in his or her office or identifying himself or herself as a CPA or PA on other than signs, advertisements, letterhead, business cards, publications directed to clients or potential clients, or financial or tax documents of a client.

### **5052. Persons Excepted**

Nothing in this chapter shall apply to any person who as an employee, independent contractor, or otherwise, contracts with one or more persons, organizations, or entities, for the purpose of keeping books, making trial balances, statements, making audits or preparing reports, all as a part of bookkeeping operations, provided that such trial balances, statements, or reports are not issued over the name of such person as having been prepared or examined by a certified public accountant or public accountant.

Nothing contained in this chapter shall affect, limit or be construed as affecting or limiting the rights of any public accountant who met the requirements of prior statutes and who was registered with the board as a public accountant on or before December 31, 1955.

### **5053. Exceptions of Certain Employees, Assistants, and Attorneys at Law**

Nothing contained in this chapter precludes a person who is not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant or public accountant or partnership or a corporation composed of certified public accountants or public accountants holding a permit to practice pursuant to this chapter if the employee or assistant works under the control and supervision of a certified public accountant, or a public accountant authorized to practice public accountancy pursuant to this chapter and if the employee or assistant does not issue any statement over his or her name.

This section does not apply to an attorney at law in connection with his or her practice of law.

### **5054. Exception for Certain Tax Preparers**

(a) Notwithstanding any other provision of this chapter, an individual or firm holding a valid and current license, certificate, or permit to practice public accountancy from another state may prepare tax returns for natural persons who are California residents or estate tax

returns for the estates of natural persons who were clients at the time of death without obtaining a permit to practice public accountancy issued by the board under this chapter or a practice privilege pursuant to Article 5.1 (commencing with Section 5096) provided that the individual or firm does not physically enter California to practice public accountancy pursuant to Section 5051, does not solicit California clients, and does not assert or imply that the individual or firm is licensed or registered to practice public accountancy in California.

(b) The board may, by regulation, limit the number of tax returns that may be prepared pursuant to subdivision (a).

#### **5055. Title of Certified Public Accountant**

Any person who has received from the board a certificate of certified public accountant, or who is authorized to practice public accountancy in this state pursuant to Article 5.1 (commencing with Section 5096) may, subject to Section 5051, be styled and known as a “certified public accountant” and may also use the abbreviation “C.P.A.” No other person, except a firm registered under this chapter, shall assume or use that title, designation, or abbreviation or any other title, designation, sign, card, or device tending to indicate that the person using it is a certified public accountant.

#### **5056. Title of Public Accountant**

Any person who has received from the board a certificate of public accountant may, subject to Section 5051, be styled and known as a “public accountant” and may also use the abbreviation “P.A.” No other person, except a firm registered under this chapter, shall assume or use that title, designation, or abbreviation or any other title, designation, sign, card, or device tending to indicate that the person using it is a public accountant.

#### **5057. Licensure & Practice Privilege Exemption**

Notwithstanding any other provision of law, an individual holding a valid and current license, certificate, or permit to practice public accountancy from another state shall be exempt from the requirement to obtain a permit to practice public accountancy issued by the board under this chapter or to secure a practice privilege pursuant to Article 5.1 (commencing with Section 5096) if all of the following conditions are satisfied:

(a) The individual’s client is located in another state.

(b) The individual’s engagement with the client relates to work product to be delivered in another state.

(c) The individual does not solicit California clients, or have his or her principal place of business in this state.

(d) The individual does not assert or imply that he or she is licensed to practice public accountancy in California.

(e) The individual's practice of public accountancy in this state on behalf of the client located in another state is of a limited duration, not extending beyond the period required to service the engagement for the client located in another state.

(f) The individual's practice of public accountancy in this state specifically relates to servicing the engagement for the client located in another state.

### **5058. Use of Confusing Titles or Designations Prohibited**

No person or partnership shall assume or use the title or designation "chartered accountant," "certified accountant," "enrolled accountant," "registered accountant" or "licensed accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations "C.A.," "E.A.," "R.A.," or "L.A.," or similar abbreviations likely to be confused with "C.P.A." or "P.A."; provided, that any person qualified as a certified public accountant under this chapter who also holds a comparable title granted under the laws of another country may use such title in conjunction with the title of "certified public accountant" or "C.P.A." and provided, that any person enrolled to practice before the Internal Revenue Service and recognized as an enrolled agent may use the abbreviation "E.A."

#### **5058.1. Titles in Conjunction with Certified Public Accountant or Public Accountant**

A person or firm may not use any title or designation in connection with the designation "certified public accountant" or "public accountant" that is false or misleading.

The board may adopt regulations covering the use of titles or designations.

#### **5058.2. Inactive Designation**

The holder of an inactive license issued by the board pursuant to Section 462, when lawfully using the title "certified public accountant," the CPA designation, or any other reference that would suggest that the person is licensed by the board on materials such as correspondence, Internet Web sites, business cards, nameplates, or name plaques, shall place the term "inactive" immediately after that designation.

#### **5058.3. Retired Designation**

The holder of a retired license issued by the board pursuant to Section 5070.1, when lawfully using the title "certified public accountant," the CPA designation, or any other reference that would suggest that the person is licensed by the board on materials such as correspondence, Internet Web sites, business cards, nameplates, or name plaques, shall place the term "retired" immediately after that title, designation, or reference.

#### **5058.4. Holder of Permit in Military Inactive Status**

The holder of a permit in a military inactive status issued by the board pursuant to Section 5070.2, when lawfully using the title “certified public accountant,” the CPA designation, or any other reference that would suggest that the person is licensed by the board, on materials such as correspondence, Internet Web sites, business cards, nameplates, or name plaques, shall place the term “military inactive” immediately after that title, designation, or reference.

#### **Article 3.5 - Standards of Professional Conduct**

##### **5060. Name of Firm**

(a) No person or firm may practice public accountancy under any name which is false or misleading.

(b) No person or firm may practice public accountancy under any name other than the name under which the person or firm holds a valid permit to practice issued by the board.

(c) Notwithstanding subdivision (b), a sole proprietor may practice under a name other than the name set forth on his or her permit to practice, provided the name is registered by the board, is in good standing, and complies with the requirements of subdivision (a).

(d) The board may adopt regulations to implement, interpret, and make specific the provisions of this section including, but not limited to, regulations designating particular forms of names as being false or misleading.

##### **5061. Commissions**

(a) Except as expressly permitted by this section, a person engaged in the practice of public accountancy shall not: (1) pay a fee or commission to obtain a client or (2) accept a fee or commission for referring a client to the products or services of a third party.

(b) A person engaged in the practice of public accountancy who is not performing any of the services set forth in subdivision (c) and who complies with the disclosure requirements of subdivision (d) may accept a fee or commission for providing a client with the products or services of a third party where the products or services of a third party are provided in conjunction with professional services provided to the client by the person engaged in the practice of public accountancy. Nothing in this subdivision shall be construed to permit the solicitation or acceptance of any fee or commission solely for the referral of a client to a third party.



(c) A person engaged in the practice of public accountancy is prohibited from performing services for a client, or an officer or director of a client, or a client-sponsored retirement plan, for a commission or from receiving a commission from a third party for providing the products or services of that third party to a client, or an officer or director of a client, or a client-sponsored retirement plan, during the period in which the person also performs for that client, or officer or director of that client, or client-sponsored retirement plan, any of the services listed below and during the period covered by any historical financial statements involved in those listed services:

(1) An audit or review of a financial statement.

(2) A compilation of a financial statement when that person expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence.

(3) An examination of prospective financial information.

For purposes of this subdivision, “director” means any person as defined under Section 164 of the Corporations Code and “officer” means any individual reported to a regulatory agency as an officer of a corporation. However, “director” and “officer” does not include a director or officer of a nonprofit corporation, or a corporation that meets the board’s definition of small business, as specified by regulation.

(d) A person engaged in the practice of public accountancy who is not prohibited from performing services for a commission, or from receiving a commission, and who is paid or expects to be paid a commission, shall disclose that fact to any client or entity to whom the person engaged in the practice of public accountancy recommends or refers a product or service to which the commission relates.

(e) The board shall adopt regulations to implement, interpret, and make specific the provisions of this section including, but not limited to, regulations specifying the terms of any disclosure required by subdivision (d), the manner in which the disclosure shall be made, and other matters regarding the disclosure that the board deems appropriate. These regulations shall require, at a minimum, that a disclosure shall comply with all of the following:

(1) Be in writing and be clear and conspicuous.

(2) Be signed by the recipient of the product or service.

(3) State the amount of the commission or the basis on which it will be computed.

(4) Identify the source of the payment and the relationship between the source of the payment and the person receiving the payment.

(5) Be presented to the client at or prior to the time the recommendation of the product or service is made.

(f) For purposes of this section, "fee" includes, but is not limited to, a commission, rebate, preference, discount, or other consideration, whether in the form of money or otherwise.

(g) This section shall not prohibit payments for the purchase of any accounting practice or retirement payments to individuals presently or formerly engaged in the practice of public accountancy or payments to their heirs or estates.

## **5062. Report Conforming to Professional Standards**

A licensee shall issue a report which conforms to professional standards upon completion of a compilation, review or audit of financial statements.

### **5062.2. Restrictions on Accepting Employment with an Audit Client**

A licensee shall not accept employment with a publicly traded corporation or its affiliate within 12 months of the date of issuance of a financial statement report if both of the following criteria are met:

(a) The licensee has participated in an audit engagement for the corporation and held responsibility, with respect to the audit engagement, requiring the licensee to exercise significant judgment in the audit process. Responsibilities meeting the requirements of this subdivision include, but are not limited to, positions, however titled, where the licensee was the person in charge of the fieldwork, up through positions where the licensee was a partner on the engagement.

(b) The employment would permit the licensee to exercise significant authority over accounting or financial reporting, including authority over the controls related to those functions.

## **5063. Reportable Events**

(a) A licensee shall report to the board in writing of the occurrence of any of the following events occurring on or after January 1, 1997, within 30 days of the date the licensee has knowledge of these events:

(1) The conviction of the licensee of any of the following:

(A) A felony.

(B) Any crime related to the qualifications, functions, or duties of a public accountant or certified public accountant, or to acts or activities in the course and scope of the practice of public accountancy.

(C) Any crime involving theft, embezzlement, misappropriation of funds or property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

As used in this section, a conviction includes the initial plea, verdict, or finding of guilt, pleas of no contest, or pronouncement of sentence by a trial court even though that conviction may not be final or sentence actually imposed until appeals are exhausted.

(2) The cancellation, revocation, or suspension of a certificate, other authority to practice or refusal to renew a certificate or other authority to practice as a certified public accountant or a public accountant, by any other state or foreign country.

(3) The cancellation, revocation, or suspension of the right to practice as a certified public accountant or a public accountant before any governmental body or agency.

(b) A licensee shall report to the board in writing the occurrence of any of the following events occurring on or after January 1, 2003, within 30 days of the date the licensee has knowledge of the events:

(1) Any restatement of a financial statement and related disclosures by a client audited by the licensee.

(2) Any civil action settlement or arbitration award against the licensee relating to the practice of public accountancy where the amount or value of the settlement or arbitration award is thirty thousand dollars (\$30,000) or greater and where the licensee is not insured for the full amount of the award.

(3) Any notice of the opening or initiation of a formal investigation of the licensee by the Securities and Exchange Commission or its designee.

(4) Any notice from the Securities and Exchange Commission to a licensee requesting a Wells Submission.

(5) Any notice of the opening or initiation of an investigation by the Public Company Accounting Oversight Board or its designee, as defined pursuant to subdivision (g).

(c) A licensee shall report to the board in writing, within 30 days of the entry of the judgment, any judgment entered on or after January 1, 2003, against the licensee in any civil action alleging any of the following:

(1) Dishonesty, fraud, gross negligence, or negligence.

(2) Breach of fiduciary responsibility.

(3) Preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

(4) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses, or other errors or omissions.

(5) Any actionable conduct by the licensee in the practice of public accountancy, the performance of bookkeeping operations, or other professional practice.

(d) The report required by subdivisions (a), (b), and (c) shall be signed by the licensee and set forth the facts which constitute the reportable event. If the reportable event involves the action of an administrative agency or court, then the report shall set forth the title of the matter, court or agency name, docket number, and dates of occurrence of the reportable event.

(e) A licensee shall promptly respond to oral or written inquiries from the board concerning the reportable events, including inquiries made by the board in conjunction with license renewal.

(f) Nothing in this section shall impose a duty upon any licensee to report to the board the occurrence of any of the events set forth in subdivision (a), (b), or (c) either by or against any other licensee.

(g) The board may adopt regulations to further define the reporting requirements of this section.

### **5063.1. Reporting by Courts**

Within 10 days of entry of a conviction described in paragraph (1) of subdivision (a) of Section 5063 or a judgment described in subdivision (c) of Section 5063 by a court of this state, the court that rendered the conviction or judgment shall report that fact to the board and provide the board with a copy of the conviction or judgment and any orders or opinions of the court accompanying or ordering the conviction or judgment.

### **5063.2. Reporting by Insurers**

Within 30 days of payment of all or any portion of any civil action settlement or arbitration award against a licensee of the board in which the amount or value of the settlement or arbitration award is thirty thousand dollars (\$30,000) or greater, any insurer or licensed surplus broker providing professional liability insurance to that licensee shall report to the board the name of the licensee, the amount or value of the settlement or arbitration award, the amount paid by the insurer or licensed surplus broker, and the identity of the payee.

### **5063.3. Disclosure of Confidential Client Information Prohibited**

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

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

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

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

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

(5) Disclosures made by a licensee to either of the following:

(A) Another licensee to the extent necessary for purposes of professional consultation.

(B) Organizations that provide professional standards review and ethics or quality control peer review.

(6) Disclosures made when specifically required by law.

(7) Disclosures specified by the board in regulation.

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

### **5063.10. Restatements**

(a) Any restatement of a financial statement that is included in any report filed with the United States Securities and Exchange Commission shall be exempt from the requirement described in paragraph (1) of subdivision (b) of Section 5063.

(b) Nothing in this section shall be construed to require the reporting of any restatement of a financial statement that is not required to be submitted to the board pursuant to the regulations adopted by the board in effect on the date this section becomes operative.

#### **Article 4 - Applications, Registrations, Permits Generally**

##### **5070. Public Accountancy Permits and Certificates**

(a) Permits to engage in the practice of public accountancy in this state shall be issued by the board only to holders of the certificate of certified public accountant issued under this chapter and to those partnerships, corporations, and other persons who, upon application approved by the board, are registered with the board under this chapter. Notwithstanding any other law, the board may register an entity organized and authorized to practice public accountancy under the laws of another state for the purpose of allowing that entity to satisfy the registration requirement set forth in Section 5096.12, if (1) the certified public accountants providing services in California qualify for the practice privilege, and (2) the entity satisfies all other requirements to register in this state, other than its form of legal organization.

(b) All applicants for registration shall furnish satisfactory evidence that the applicant is entitled to registration and shall pay the fee as provided in Article 8 (commencing with Section 5130). Every partnership, corporation, and other person to whom a permit is issued shall, in addition to any other fee that may be payable, pay the initial permit fee provided in Article 8 (commencing with Section 5130).

(c) The board may collect, but shall not require, a valid electronic mail address at the time of application for a certified public accountant license. In the interest of protecting an applicant's privacy, the electronic mail address shall not be considered a public record and shall not be disclosed pursuant to Section 27 or pursuant to a request under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), unless required pursuant to a court order by a court of competent jurisdiction.

(d) Each partnership, corporation, and other person issued a permit by the board to practice as a certified public accountant or as a public accountant shall be furnished with a suitable certificate evidencing that registration.

##### **5070.1. Retired Status**

(a) The board may establish, by regulation, a system for the placement of a license into a retired status, upon application, for certified public accountants and public accountants who are not actively engaged in the practice of public accountancy or any activity that requires them to be licensed by the board.

(b) No licensee with a license in a retired status shall engage in any activity for which a permit is required.

(c) The board shall deny an applicant's application to place a license in a retired status if the permit is subject to an outstanding order of the board, is suspended, revoked, or otherwise punitively restricted by the board, or is subject to disciplinary action under this chapter.

(d) (1) The holder of a license that was canceled pursuant to Section 5070.7 may apply for the placement of that license in a retired status pursuant to subdivision (a).

(2) Upon approval of an application made pursuant to paragraph (1), the board shall reissue that license in a retired status.

(3) The holder of a canceled license that was placed in retired status between January 1, 1994, and January 1, 1999, inclusive, shall not be required to meet the qualifications established pursuant to subdivision (e), but shall be subject to all other requirements of this section.

(e) The board shall establish minimum qualifications to place a license in retired status.

(f) The board may exempt the holder of a license in a retired status from the renewal requirements described in Section 5070.5.

(g) The board shall establish minimum qualifications for the restoration of a license in a retired status to an active status. These minimum qualifications shall include, but are not limited to, continuing education and payment of a fee as provided in subdivision (h) of Section 5134.

(h) The board shall not restore to active or inactive status a license that was canceled by operation of law, pursuant to subdivision (a) of Section 5070.7, and then placed into retired status pursuant to subdivision (d). The individual shall instead apply for a new license, as described in subdivision (c) of Section 5070.7, in order to restore his or her license.

## **5070.2. Military Inactive Status**

(a) (1) Beginning January 1, 2014, a holder of a permit may apply to have his or her permit placed in a military inactive status if the holder of a permit is engaged in, and provides sufficient evidence of, active duty as a member of the California National Guard or the United States Armed Forces.

(2) The board shall deny an applicant's application for a military inactive status permit if the permit issued pursuant to Section 5070 is canceled or if it is suspended, revoked, or

otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(b) No holder of a permit in a military inactive status shall engage in any activity for which a permit is required.

(c) The holder of a permit in a military inactive status shall be exempt from all of the following:

- (1) Payment of the biennial renewal fee described in subdivision (f) of Section 5134.
- (2) The continuing education requirements of Section 5027.
- (3) The peer review requirements of Section 5076.

(d) In order to convert a permit status from military inactive status prior to discharge from active duty as a member of the California National Guard or the United States Armed Forces, the holder of a permit in a military inactive status shall comply with all of the following requirements:

- (1) Pay the current biennial renewal fee described in subdivision (f) of Section 5134.
- (2) Meet continuing education requirements as prescribed by the board.
- (3) Meet the peer review requirements as prescribed by the board.

(e) The holder of a permit in a military inactive status shall, within one year from his or her discharge from active duty as a member of the California National Guard or the United States Armed Forces, comply with all of the following requirements:

- (1) Provide evidence to the board of the discharge date.
- (2) Pay the current biennial renewal fee described in subdivision (f) of Section 5134.
- (3) Meet continuing education requirements as prescribed by the board.
- (4) Meet the peer review requirements as prescribed by the board.

(f) The board may adopt regulations as necessary to administer this section.

#### **5070.5. Expiration of Permits; Renewal; Continuing Education Requirements**

(a) (1) A permit issued under this chapter to a certified public accountant or a public accountant expires at 12 midnight on the last day of the month of the legal birthday of the licensee during the second year of a two-year term if not renewed.



(2) To renew an unexpired permit, a permitholder shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed by this chapter, and give evidence satisfactory to the board that he or she has complied with the continuing education provisions of this chapter.

(3) The board may collect, but shall not require, a valid electronic mail address on the renewal form described in paragraph (1). In the interest of protecting an applicant's privacy, the electronic mail address shall not be considered a public record and shall not be disclosed pursuant to Section 27 or pursuant to a request under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), unless required pursuant to a court order by a court of competent jurisdiction.

(b) A permit to practice as an accountancy partnership or an accountancy corporation expires at 12 midnight on the last day of the month in which the permit was initially issued during the second year of a two-year term if not renewed. To renew an unexpired permit, the permitholder shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed by this chapter, and provide evidence satisfactory to the board that the accountancy partnership or accountancy corporation is in compliance with this chapter.

#### **5070.6. Renewal of Expired Permits and Effective Date of Renewal of Such Permits**

Except as otherwise provided in this chapter, an expired permit may be renewed at any time within five years after its expiration upon the filing of an application for renewal on a form prescribed by the board, payment of all accrued and unpaid renewal fees and providing evidence satisfactory to the board of compliance as required by Section 5070.5. If the permit is renewed after its expiration, its holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the accrued renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the permit shall continue in effect through the date provided in Section 5070.5 that next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

#### **5070.7. Failure to Renew Within Five Years; Reinstatement**

(a) A permit that is not renewed within five years following its expiration may not be renewed, restored, or reinstated thereafter, and the certificate of the holder of the permit shall be canceled immediately upon expiration of the five-year period, except as provided in subdivision (e).

(b) A partnership or corporation whose certificate has been canceled by operation of this section may obtain a new certificate and permit only if it again meets the requirements set

forth in this chapter relating to registration and pays the registration fee and initial permit fee.

(c) A certified public accountant whose certificate is canceled by operation of this section may apply for and obtain a new certificate and permit if the applicant:

(1) Is not subject to denial of a certificate and permit under Section 480.

(2) Pays all of the fees that would be required of him or her if he or she were then applying for the certificate and permit for the first time.

(3) Takes and passes the examination which would be required of him or her if he or she were then applying for the certificate for the first time. The examination may be waived in any case in which the applicant establishes to the satisfaction of the board that, with due regard for the public interest, he or she is qualified to engage in practice as a certified public accountant.

(d) The board may, by appropriate regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a certificate is issued without an examination under this section.

(e) Revoked permits may not be renewed, but may be reinstated by the board, without regard to the length of time that has elapsed since the permit was revoked, and with conditions and restrictions as the board shall determine.

#### **5070.8. Expiration of Suspended or Revoked Permits**

A permit which has been suspended is subject to expiration, and shall be renewed as provided in this article, but such renewal does not entitle the holder of the permit, while it remains suspended, and until it is reinstated, to engage in the practice of accountancy, or in any other activity or conduct in violation of the order or judgment by which the permit was suspended.

A permit which has been revoked is subject to expiration, but it may not be renewed. If it is reinstated after its expiration, the holder of the permit, as a condition precedent to its reinstatement, shall pay a reinstatement fee which shall be in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

#### **5072. Requirements for Registration as a Partnership (Operative July 1, 2013; Repealed January 1, 2019)**

(a) No persons shall engage in the practice of accountancy as a partnership unless the partnership is registered by the board.

(b) A partnership, other than a limited partnership, may be registered by the board to engage in the practice of public accountancy provided it meets the following requirements:

(1) At least one general partner shall hold a valid permit to practice as a certified public accountant, public accountant, or accountancy corporation, or shall be an applicant for a certificate as a certified public accountant under Sections 5087 and 5088, or the partnership shall be registered pursuant to subdivision (c) of Section 5096.12.

(2) Each partner engaged within this state in the practice of public accountancy as defined by Section 5051 shall hold a valid permit to practice in this state or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088, except for a partner with practice privileges pursuant to Section 5096.

(3) Each partner not engaged in the practice of public accountancy within this state shall be a certified public accountant in good standing of some state, except as permitted by Section 5079.

(4) Each resident manager in charge of an office of the firm in this state shall be a licensee in good standing of this state, or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088.

(c) This section shall become operative on July 1, 2013.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

### **5072. Requirements for Registration as a Partnership (Operative January 1, 2019)**

(a) No persons shall engage in the practice of accountancy as a partnership unless the partnership is registered by the board.

(b) A partnership, other than a limited partnership, may be registered by the board to engage in the practice of public accountancy provided it meets the following requirements:

(1) At least one general partner shall hold a valid permit to practice as a certified public accountant, public accountant, or accountancy corporation, or shall be an applicant for a certificate as a certified public accountant under Sections 5087 and 5088.

(2) Each partner engaged within this state in the practice of public accountancy as defined by Section 5051 shall hold a valid permit to practice in this state or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088.

(3) Each partner not engaged in the practice of public accountancy within this state shall be a certified public accountant in good standing of some state, except as permitted by Section 5079.

(4) Each resident manager in charge of an office of the firm in this state shall be a licensee in good standing of this state, or shall have applied for a certificate as a certified public accountant under Sections 5087 and 5088.

(c) This section shall become operative on January 1, 2019.

### **5073. Partnership Applications**

(a) Application for registration of a partnership shall be made upon a form prescribed by the board. The board shall in each case determine whether the applicant is eligible for registration.

(b) A partnership that is so registered and that holds a valid permit issued under this article and that has at least one general partner who is licensed to practice using the designation "certified public accountant" or the abbreviation "C.P.A." and one additional licensed person may use the words "certified public accountants" or the abbreviation "C.P.A.s" in connection with its partnership name.

(c) A partnership that is so registered and that holds a valid permit issued under this article and that has at least one general partner who is licensed to practice using the designation "public accountant" or the abbreviation "P.A." and one additional licensed person may use the words "public accountants" or the abbreviation "P.A.s" in connection with its partnership name.

(d) Notification shall be given to the board within one month after the admission to, or withdrawal of, a partner from any partnership so registered.

(e) Any registration of a partnership under this section granted in reliance upon Sections 5087 and 5088 shall terminate forthwith if the board rejects the application under Sections 5087 and 5088 of the general partner who signed the application for registration as a partnership, or any partner personally engaged in the practice of public accountancy in this state, or any resident manager of a partnership in charge of an office in this state.

### **5076. Peer Review**

(a) In order to renew its registration in an active status or convert to an active status, a firm, as defined in Section 5035.1, shall have a peer review report of its accounting and auditing practice accepted by a board-recognized peer review program no less frequently than every three years.

(b) For purposes of this article, the following definitions apply:

(1) "Peer review" means a study, appraisal, or review conducted in accordance with professional standards of the professional work of a firm, and may include an evaluation of other factors in accordance with the requirements specified by the board in regulations. The peer review report shall be issued by an individual who has a valid and current license, certificate, or permit to practice public accountancy from this state or another state and is unaffiliated with the firm being reviewed.

(2) "Accounting and auditing practice" includes any services that were performed in the prior three years using professional standards defined by the board in regulations.

(c) The board shall adopt regulations as necessary to implement, interpret, and make specific the peer review requirements in this section, including, but not limited to, regulations specifying the requirements for board recognition of a peer review program, standards for administering a peer review, extensions of time for fulfilling the peer review requirement, exclusions from the peer review program, and document submission.

(d) Nothing in this section shall prohibit the board from initiating an investigation and imposing discipline against a firm or licensee, either as the result of a complaint that alleges violations of statutes, rules, or regulations, or from information contained in a peer review report received by the board.

(e) A firm issued a substandard peer review report, as defined by the board in regulation, shall submit a copy of that report to the board. The board shall establish in regulation the time period that a firm must submit the report to the board. This period shall not exceed 60 days from the time the report is accepted by a board-recognized peer review program provider to the date the report is submitted to the board.

(f) (1) A board-recognized peer review program provider shall file a copy with the board of all substandard peer review reports issued to California-licensed firms. The board shall establish in regulation the time period that a board-recognized peer review program provider shall file the report with the board. This period shall not exceed 60 days from the time the report is accepted by a board-recognized peer review program provider to the date the report is filed with the board. These reports may be filed with the board electronically.

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

(g) The board shall, by January 1, 2010, define a substandard peer review report in regulation.

(h) Any requirements imposed by a board-recognized peer review program on a firm in conjunction with the completion of a peer review shall be separate from, and in addition to, any action by the board pursuant to this section.

(i) Any report of a substandard peer review submitted to the board in conjunction with this section shall be collected for investigatory purposes.

(j) Nothing in this section affects the discovery or admissibility of evidence in a civil or criminal action.

(k) Nothing in this section requires any firm to become a member of any professional organization.

(l) A peer reviewer shall not disclose information concerning licensees or their clients obtained during a peer review, unless specifically authorized pursuant to this section, Section 5076.1, or regulations prescribed by the board.

(m) (1) By January 1, 2015, the board shall provide the Legislature and Governor with a report regarding the peer review requirements of this section that includes, without limitation:

(A) The number of peer review reports completed to date and the number of reports which were submitted to the board as required in subdivision (e).

(B) The number of enforcement actions that were initiated as a result of an investigation conducted pursuant to subdivision (i).

(C) The number of firms that were recommended to take corrective actions to improve their practice through the mandatory peer review process, and the number of firms that took corrective actions to improve their practice following recommendations resulting from the mandatory peer review process.

(D) The extent to which mandatory peer review of accounting firms enhances consumer protection.

(E) The cost impact on firms undergoing mandatory peer review and the cost impact of mandatory peer review on the firm's clients.

(F) A recommendation as to whether the mandatory peer review program should continue.

(G) The extent to which mandatory peer review of small firms or sole practitioners that prepare nondisclosure compiled financial statements on an other comprehensive basis of accounting enhances consumer protection.

(H) The impact of peer review required by this section on small firms and sole practitioners that prepare nondisclosure compiled financial statements on an other comprehensive basis of accounting.

(I) The impact of peer review required by this section on small businesses, nonprofit corporations, and other entities that utilize small firms or sole practitioners for the purposes of nondisclosure compiled financial statements prepared on an other comprehensive basis of accounting.

(J) A recommendation as to whether the preparation of nondisclosure compiled financial statements on an other comprehensive basis of accounting should continue to be a part of the mandatory peer review program.

(2) A report to the Legislature pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

#### **5076.1. Peer Review Oversight Committee**

(a) The board shall appoint a peer review oversight committee of certified public accountants of this state who maintain a license in good standing and who are authorized to practice public accountancy to provide recommendations to the board on any matter upon which it is authorized to act to ensure the effectiveness of mandatory peer review.

(b) The committee may request any information from a board-recognized peer review program provider deemed necessary to ensure the provider is administering peer reviews in accordance with the standards adopted by the board in regulations. Failure of a board-recognized peer review program provider to respond to the committee shall result in referral by the committee of the provider to the board for further action. Any information obtained by the board, its representatives, or the peer review oversight committee in conjunction with its review of peer review program providers shall not be a public record, and shall be exempt from public disclosure, provided, however, this information may be disclosed under any of the following circumstances:

(1) In connection with disciplinary proceedings of the board.

(2) In connection with legal proceedings in which the board is a party.

(3) In response to an official inquiry by a federal or state governmental regulatory agency.

(4) In compliance with a subpoena or summons enforceable by court order.

(5) As otherwise specifically required by law.

(c) The members of the committee shall be appointed to two-year terms and may serve a maximum of four consecutive terms.

(d) The board may adopt, as necessary, regulations further defining the minimum qualifications for appointment as a committee member and additional administrative elements designed to ensure the effectiveness of mandatory peer review.

### **5078. Offices Not Under Personal Management of Certified Public Accountant or Public Accountant; Supervision**

In each office of a certified public accountant or public accountant in this state which is not under the personal management of such an accountant, respectively, work shall be supervised by a certified public accountant or public accountant.

### **5079. Nonlicensee Ownership of Firms**

(a) Notwithstanding any other provision of this chapter, any firm lawfully engaged in the practice of public accountancy in this state may have owners who are not licensed as certified public accountants or public accountants if the following conditions are met:

(1) Nonlicensee owners shall be natural persons or entities, such as partnerships, professional corporations, or others, provided that each ultimate beneficial owner of an equity interest in that entity shall be a natural person materially participating in the business conducted by the firm or an entity controlled by the firm.

(2) Nonlicensee owners shall materially participate in the business of the firm, or an entity controlled by the firm, and their ownership interest shall revert to the firm upon the cessation of any material participation.

(3) Licensees shall in the aggregate, directly or beneficially, comprise a majority of owners, except that firms with two owners may have one owner who is a nonlicensee.

(4) Licensees shall in the aggregate, directly or beneficially, hold more than half of the equity capital and possess majority voting rights.

(5) Nonlicensee owners shall not hold themselves out as certified public accountants or public accountants and each licensed firm shall disclose actual or potential involvement of nonlicensee owners in the services provided.

(6) There shall be a certified public accountant or public accountant who has ultimate responsibility for each financial statement attest and compilation service engagement.

(7) Except as permitted by the board in the exercise of its discretion, a person may not become a nonlicensee owner or remain a nonlicensee owner if the person has done either of the following:



(A) Been convicted of any crime, an element of which is dishonesty or fraud, under the laws of any state, of the United States, or of any other jurisdiction.

(B) Had a professional license or the right to practice revoked or suspended for reasons other than nonpayment of dues or fees, or has voluntarily surrendered a license or right to practice with disciplinary charges or a disciplinary investigation pending, and not reinstated by a licensing or regulatory agency of any state, or of the United States, including, but not limited to, the Securities and Exchange Commission or Public Company Accounting Oversight Board, or of any other jurisdiction.

(b) (1) A nonlicensee owner of a licensed firm shall report to the board in writing of the occurrence of any of the events set forth in paragraph (7) of subdivision (a) within 30 days of the date the nonlicensee owner has knowledge of the event. A conviction includes the initial plea, verdict, or finding of guilt, pleas of no contest, or pronouncement of sentence by a trial court even though that conviction may not be final or sentence actually imposed until appeals are exhausted.

(2) A California nonlicensee owner of a licensed firm shall report to the board in writing the occurrence of any of the following events occurring on or after January 1, 2006, within 30 days of the date the California nonlicensee owner has knowledge of the events:

(A) Any notice of the opening or initiation of a formal investigation of the nonlicensee owner by the Securities and Exchange Commission or its designee, or any notice from the Securities and Exchange Commission to a nonlicensee owner requesting a Wells submission.

(B) Any notice of the opening or initiation of an investigation of the nonlicensee owner by the Public Company Accounting Oversight Board or its designee.

(C) Any notice of the opening or initiation of an investigation of the nonlicensee owner by another professional licensing agency.

(3) The report required by paragraphs (1) and (2) shall be signed by the nonlicensee owner and set forth the facts that constitute the reportable event. If the reportable event involves the action of an administrative agency or court, the report shall identify the name of the agency or court, the title of the matter, and the date of occurrence of the event.

(4) Notwithstanding any other provision of law, reports received by the board pursuant to paragraph (2) shall not be disclosed to the public pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) other than (A) in the course of any disciplinary proceeding by the board after the filing of a formal accusation, (B) in the course of any legal action to which the board is a party, (C) in response to an official inquiry from a state or federal agency, (D) in

response to a subpoena or summons enforceable by order of a court, or (E) when otherwise specifically required by law.

(5) Nothing in this subdivision shall impose a duty upon any licensee or nonlicensee owner to report to the board the occurrence of any events set forth in paragraph (7) of subdivision (a) or paragraph (2) of this subdivision either by or against any other nonlicensee owner.

(c) For purposes of this section, the following definitions apply:

(1) "Licensee" means a certified public accountant or public accountant in this state or a certified public accountant in good standing in another state.

(2) "Material participation" means an activity that is regular, continuous, and substantial.

(d) All firms with nonlicensee owners shall certify at the time of registration and renewal that the firm is in compliance with this section.

(e) The board shall adopt regulations to implement, interpret, or make specific this section.

## **Article 5 - Certificates, Information and Records**

### **5080. Granting of Certified Public Accountant Certificates**

The "certified public accountant" license shall be granted by the board to any person who meets the requirements of this article, has not committed acts or crimes constituting grounds for denial of a license under Section 480, and files an application for licensure on a form provided by the board.

#### **5080.1. Personal Appearance of Applicant Before Board**

The board may require an applicant for a certified public accountant license to appear in person to determine if the applicant's qualifications are as prescribed in this chapter and in rules adopted by the board.

#### **5081. Requirements for Admission to Certified Public Accountant Examination**

An applicant for an authorization to be admitted to the examination for a certified public accountant license shall:

(a) Not have committed acts or crimes constituting grounds for denial of a license under Section 480.

(b) File the application prescribed by the board. This application shall not be considered filed unless all required supporting documents, fees, and the fully completed board-approved application form are received in the board office or filed by mail in accordance with Section 11003 of the Government Code on or before the specified final filing date.

(c) Meet one of the educational requirements specified in this article.

## **5082. Certified Public Accountant Examination**

An applicant for a certified public accountant license shall have successfully passed an examination in subjects the board deems appropriate, and in the form and manner that the board deems appropriate. The board may, by regulation, prescribe the methods for applying for and conducting the examination, including methods for grading and determining a passing grade.

### **5082.1. Administration of Certified Public Accountant Examination**

(a) The examination required by the board for the granting of a license as a certified public accountant may be conducted by the board or by a public or private organization specified by the board. The examination may be conducted under a uniform examination system.

(b) The board may make arrangements with a public or private organization for the conduct of the examination, as deemed necessary by the board. The board may contract with a public or private organization for materials or services related to the examination.

### **5082.2. Reexamination**

A candidate who fails an examination provided for in this article shall have the right to reexamination pursuant to the provisions of this article and regulations adopted by the board.

### **5082.3. Qualification for Examination by Foreign Applicants**

An applicant for a license as a certified public accountant may be deemed by the board to have met the examination requirements of Section 5082, 5092, or 5093 if the applicant satisfies all of the following requirements:

(a) The applicant is licensed or has comparable authority under the laws of any country to engage in the practice of public accountancy.

(b) The International Qualifications Appraisal Board jointly established by the National Association of State Boards of Accountancy and the American Institute of Certified Public

Accountants has determined that the standards under which the applicant was licensed or under which the applicant secured comparable authority meet its standards for admission to the International Uniform Certified Public Accountant Qualification Examination.

(c) The applicant has successfully passed the International Uniform Certified Public Accountant Qualification Examination referenced in subdivision (b).

#### **5082.4. Qualification for Examination by Canadian Chartered Accountants**

A Canadian Chartered Accountant in good standing may be deemed by the board to have met the examination requirements of Section 5082, 5092, or 5093 if he or she has successfully passed the Canadian Chartered Accountant Uniform Certified Public Accountant Qualification Examination of the American Institute of Certified Public Accountants or the International Uniform Certified Public Accountant Qualification Examination referenced in subdivision (b) Section 5082.3.

#### **5082.5. Passage of the Exam in Another State**

The board may give credit to a candidate who has passed all or part of the examination in another state or territory, if the members of the board determine that the standards under which the examination was held are as high as the standards established for examination in this chapter.

#### **5086. Existing Certified Public Accountant Certificates**

Individuals who, at the time of the enactment of this act, hold certified public accountant licenses heretofore issued under the laws of this state shall not be required to secure additional licenses under this chapter, but shall otherwise be subject to all the provisions of this act; and such licenses heretofore issued shall, for all purposes, be considered licenses under this chapter and subject to the provisions hereof.

#### **5087. Licensure Requirements: Out-of-State Licensee**

(a) The board may issue a certified public accountant license to any applicant who is a holder of a current, active, and unrestricted certified public accountant license issued under the laws of any state, if the board determines that the standards under which the applicant received the license are substantially equivalent to the standards of education, examination, and experience established under this chapter and the applicant has not committed acts or crimes constituting grounds for denial under Section 480. To be authorized to sign reports on attest engagements, the applicant shall meet the requirements of Section 5095.

(b) The board may in particular cases waive any of the requirements regarding the circumstances in which the various parts of the examination were to be passed for an applicant from another state.

### **5088. Out-of-State Certified Public Accountant Applying for California License**

(a) Any individual who is the holder of a current and valid license as a certified public accountant issued under the laws of any state and who applies to the board for a license as a certified public accountant under the provisions of Section 5087 may, until the time the application for a license is granted or denied, practice public accountancy in this state only under a practice privilege pursuant to the provisions of Article 5.1 (commencing with Section 5096), except that, for purposes of this section, the individual is not disqualified from a practice privilege during the period the application is pending by virtue of maintaining an office or principal place of business, or both, in this state. The board may by regulation provide for exemption, credit, or proration of fees to avoid duplication of fees.

(b) This section shall become operative on January 1, 2006.

### **5090. Education and Experience Requirements**

An applicant for the certified public accountant license shall comply with the education, examination, and experience requirements in either Section 5092 or 5093.

### **5092. Pathway 1 (Operative Term Contingent)**

(a) To qualify for the certified public accountant license, an applicant who is applying under this section shall meet the education, examination, and experience requirements specified in subdivisions (b), (c), and (d), or otherwise prescribed pursuant to this article. The board may adopt regulations as necessary to implement this section.

(b) An applicant for the certified public accountant license shall present satisfactory evidence that the applicant has completed a baccalaureate or higher degree conferred by a college or university, meeting, at a minimum, the standards described in Section 5094, the total educational program to include a minimum of 24 semester units in accounting subjects and 24 semester units in business related subjects. This evidence shall be provided prior to admission to the examination for the certified public accountant license, except that an applicant who applied, qualified, and sat for at least two subjects of the examination for the certified public accountant license before May 15, 2002, may provide this evidence at the time of application for licensure.

(c) An applicant for the certified public accountant license shall pass an examination prescribed by the board pursuant to this article.

(d) The applicant shall show, to the satisfaction of the board, that the applicant has had two years of qualifying experience. This experience may include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. To be qualifying under this section, experience shall have been performed in accordance with applicable professional standards.

Experience in public accounting shall be completed under the supervision or in the employ of a person licensed or otherwise having comparable authority under the laws of any state or country to engage in the practice of public accountancy. Experience in private or governmental accounting or auditing shall be completed under the supervision of an individual licensed by a state to engage in the practice of public accountancy.

(e) This section shall become inoperative on January 1, 2014, but shall become or remain operative if the educational requirements in ethics study and accounting study established by subdivision (b) of Section 5093, Section 5094.3, and Section 5094.6 are reduced or eliminated.

(f) The amendment to Section 5094.3 made by the act adding this subdivision shall not be deemed an amendment of that section for purposes of subdivision (e).

### **5092.1. Extension of Time to Qualify**

Notwithstanding subdivision (a) of Section 5093, an applicant who has successfully completed the examination requirement specified in Section 5082 on or before December 31, 2013, may qualify for the issuance of a certified public accountant license until January 1, 2016, if he or she has met all remaining requirements specified in Section 5092 as they existed on December 31, 2013.

### **5093. Pathway 2**

(a) To qualify for the certified public accountant license, an applicant who is applying under this section shall meet the education, examination, and experience requirements specified in subdivisions (b), (c), and (d), or otherwise prescribed pursuant to this article. The board may adopt regulations as necessary to implement this section.

(b) (1) An applicant for admission to the certified public accountant examination under this section shall present satisfactory evidence that the applicant has completed a baccalaureate or higher degree conferred by a degree-granting university, college, or other institution of learning accredited by a regional or national accrediting agency included in a list of these agencies published by the United States Secretary of Education under the requirements of the federal Higher Education Act of 1965 as amended (20 U.S.C. Sec. 1001 et seq.), or meeting, at a minimum, the standards described in subdivision (c) of Section 5094. The total educational program shall include a minimum of 24 semester units in accounting subjects and 24 semester units in business-related subjects. This evidence shall be provided at the time of application for admission to the examination, except that an applicant who applied, qualified, and sat for at least two subjects of the examination for the certified public accountant license before May 15, 2002, may provide this evidence at the time of application for licensure.

(A) An applicant enrolled in a program at an institution as described in this paragraph that grants conferral of a baccalaureate degree upon completion of the 150 semester units

required by paragraph (2) of this subdivision may satisfy the requirements of this paragraph if the applicant's institution mails the applicant's official transcript or its equivalent together or separately with a letter signed by the institution's registrar, or its equivalent, directly to the board pursuant to subdivision (c) of Section 5094. The letter shall include all of the following:

(i) A statement that the applicant is enrolled and in good standing in a program that will result in the conferral of a baccalaureate degree upon completion of either a master's degree or the 150 semester units required by paragraph (2) of this subdivision.

(ii) A statement that the applicant has completed all requirements, including general education and elective requirements, for a baccalaureate degree and the only reason the college or university has yet to confer the degree is because the applicant is enrolled in a program that confers a baccalaureate degree upon completion of either a master's degree or the 150 semester units required by paragraph (2) of this subdivision.

(iii) The date on which the applicant met all of the college's or university's requirements for conferral of a baccalaureate degree.

(B) The total educational program for an applicant described in subparagraph (A) shall include a minimum of 24 semester units in accounting subjects and 24 semester units in business-related subjects. This evidence shall be provided at the time of application for admission to the examination, except that an applicant who applied, qualified, and sat for at least two subjects of the examination for the certified public accountant license before May 15, 2002, may provide this evidence at the time of application for licensure.

(2) An applicant for issuance of the certified public accountant license under this section shall present satisfactory evidence that the applicant has completed at least 150 semester units of college education, including a baccalaureate or higher degree conferred by a college or university, meeting, at a minimum, the standards described in Section 5094, the total educational program to include a minimum of 24 semester units in accounting subjects, 24 semester units in business-related subjects, and, after December 31, 2013, shall also include a minimum of 10 units of ethics study consistent with the requirements set forth in Section 5094.3 and 20 units of accounting study consistent with the regulations promulgated under subdivision (c) of Section 5094.6. This evidence shall be presented at the time of application for the certified public accountant license. Nothing in this paragraph shall be deemed inconsistent with Section 5094 or 5094.6. Nothing in this paragraph shall be construed to be inconsistent with prevailing academic practice regarding the completion of units.

(c) An applicant for the certified public accountant license shall pass an examination prescribed by the board.

(d) (1) The applicant shall show, to the satisfaction of the board, that the applicant has had one year of qualifying experience. This experience may include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills.

(2) To be qualifying under this section, experience shall have been performed in accordance with applicable professional standards. Experience in public accounting shall be completed under the supervision or in the employ of a person licensed or otherwise having comparable authority under the laws of any state or country to engage in the practice of public accountancy. Experience in private or governmental accounting or auditing shall be completed under the supervision of an individual licensed by a state to engage in the practice of public accountancy.

(3) Notwithstanding paragraph (2), the board may, by regulation, allow experience in academia to be qualifying under this section.

(e) Applicants completing education at a college or university located outside of this state, meeting, at a minimum, the standards described in Section 5094, shall be deemed to meet the educational requirements of this section if the board determines that the education is substantially equivalent to the standards of education specified under this chapter.

(f) An applicant who has successfully passed the examination requirement specified under Section 5082 on or before December 31, 2013, may qualify for the certified public accountant license without satisfying the 10 semester units of study set forth in Section 5094.3 or 20 semester units of accounting study consistent with the regulations promulgated under Section 5094.6, if the applicant completes all other requirements for the issuance of a license on or before December 31, 2015.

#### **5094. Accredited Schools**

(a) In order for education to be qualifying, it shall meet the standards described in subdivision (b) or (c) of this section.

(b) At a minimum, education shall be from a degree-granting university, college, or other institution of learning accredited by a regional or national accrediting agency included in a list of these agencies published by the United States Secretary of Education under the requirements of the Higher Education Act of 1965 as amended (20 U.S.C. Sec. 1001 et seq.).

(c) Education from a college, university, or other institution of learning located outside the United States may be qualifying provided it is deemed by the board to be equivalent to education obtained under subdivision (b). The board may require an applicant to submit documentation of his or her education to a credential evaluation service approved by the board for evaluation and to cause the results of this evaluation to be reported to the board in order to assess educational equivalency.



(d) The board shall adopt regulations specifying the criteria and procedures for approval of credential evaluation services. These regulations shall, at a minimum, require that the credential evaluation service (1) furnish evaluations directly to the board, (2) furnish evaluations written in English, (3) be a member of the American Association of Collegiate Registrars and Admission Officers, the National Association of Foreign Student Affairs, or the National Association of Credential Evaluation Services, (4) be used by accredited colleges and universities, (5) be reevaluated by the board every five years, (6) maintain a complete set of reference materials as specified by the board, (7) base evaluations only upon authentic, original transcripts and degrees and have a written procedure for identifying fraudulent transcripts, (8) include in the evaluation report, for each degree held by the applicant, the equivalent degree offered in the United States, the date the degree was granted, the institution granting the degree, an English translation of the course titles, and the semester unit equivalence for each of the courses, (9) have an appeal procedure for applicants, and (10) furnish the board with information concerning the credential evaluation service that includes biographical information on evaluators and translators, three letters of references from public or private agencies, statistical information on the number of applications processed annually for the past five years, and any additional information the board may require in order to ascertain that the credential evaluation service meets the standards set forth in this subdivision and in any regulations adopted by the board.

### **5094.3. Ethics Study Requirements**

(a) An applicant for licensure as a certified public accountant shall, to the satisfaction of the board, provide documentation of the completion of 10 semester units or 15 quarter units of ethics study, as set forth in paragraph (2) of subdivision (b) of Section 5093, in the manner prescribed in this section.

(b) (1) Between January 1, 2014, and December 31, 2016, inclusive, an applicant shall complete 10 semester units or 15 quarter units in courses described in subdivisions (d), (e), and (f).

(2) Beginning January 1, 2017, an applicant shall complete 10 semester units or 15 quarter units in courses described in subdivisions (c), (d), (e), and (f).

(c) A minimum of three semester units or four quarter units in courses at an upper division level or higher devoted to accounting ethics or accountants' professional responsibilities, unless the course was completed at a community college, in which case it need not be completed at the upper division level or higher.

(d) Between January 1, 2014, and December 31, 2016, inclusive, a maximum of 10 semester units or 15 quarter units, and on and after January 1, 2017, a maximum of 7 semester units or 11 quarter units, in the following subjects relating to ethics:

(1) Business, government, and society.

- (2) Business law.
- (3) Corporate governance.
- (4) Corporate social responsibility.
- (5) Ethics.
- (6) Fraud.
- (7) Human resources management.
- (8) Business leadership.
- (9) Legal environment of business.
- (10) Management of organizations.
- (11) Morals.
- (12) Organizational behavior.
- (13) Professional responsibilities.
- (14) Auditing.

(e) (1) A maximum of three semester units or four quarter units in courses taken in the following disciplines:

- (A) Philosophy.
- (B) Religion.
- (C) Theology.

(2) To qualify under this subdivision, the course title shall contain one or more of the terms “introduction,” “introductory,” “general,” “fundamentals of,” “principles,” “foundation of,” or “survey of,” or have the name of the discipline as the sole name of the course title.

(f) A maximum of one semester unit of ethics study for completion of a course specific to financial statement audits.

(g) An applicant who has successfully passed the examination requirement specified under Section 5082 on or before December 31, 2013, is exempt from this section unless the applicant fails to obtain the qualifying experience as specified in Section 5092 or 5093 on or before December 31, 2015.

#### **5094.6. Ethics Study and Accounting Study Guidelines**

(a) The board shall, by regulation, adopt guidelines for accounting study to be included as part of the education required under Section 5093.

(b) For purposes of this section, “accounting study” means independent study or other academic work in accounting, business, ethics, business law, or other academic work relevant to accounting and business, so as to enhance the competency of students as practitioners.

#### **5095. Providing Attest Services.**

(a) To be authorized to sign reports on attest engagements, a licensee shall complete a minimum of 500 hours of experience, satisfactory to the board, in attest services.

(b) To be qualifying under this section, attest experience shall have been performed in accordance with applicable professional standards. Experience in public accounting shall be completed under the supervision or in the employ of a person licensed or otherwise having comparable authority under the laws of any state or country to engage in the practice of public accountancy and provide attest services, and this experience shall be verified. Experience in private or governmental accounting or auditing shall be completed under the supervision of an individual licensed by a state to engage in the practice of public accountancy and perform attest services, and this experience shall be verified. An applicant may be required to present work papers or other evidence substantiating that the applicant has met the requirements of this section and applicable regulations.

(c) An individual who qualified for licensure by meeting the requirements of Section 5083 shall be deemed to have satisfied the requirements of this section.

(d) The board shall adopt regulations to implement this section, including, but not limited to, a procedure for applicants under Section 5092 or Section 5093 to qualify under this section.

### **Article 5.1 - Practice Privileges**

#### **5096. Practice Privilege General Requirements (Operative July 1, 2013; Repealed January 1, 2019)**

(a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least 4 of the last 10 years.

(2) The individual has a license, certificate, or permit from a state that has been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure that have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) An individual who qualifies for the practice privilege under this section may engage in the practice of public accountancy in this state, and a notice, fee, or other requirement shall not be imposed on that individual by the board.

(d) An individual who qualifies for the practice privilege under this section may perform the following services only through a firm of certified public accountants that has obtained a registration from the board pursuant to Section 5096.12:

(1) An audit or review of a financial statement for an entity headquartered in California.

(2) A compilation of a financial statement when that person expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence for an entity headquartered in California.

(3) An examination of prospective financial information for an entity headquartered in California.

(e) An individual who holds a practice privilege under this article, and is exercising the practice privilege in California:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state, except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when the individual has met the examination and continuing education requirements of the state in which the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based

as the individual's agent on whom notices, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand, or subpoena for information or documents and timely provide to the board the identified information and documents.

(6) Shall cease exercising the practice privilege in this state if the regulatory agency in the state in which the individual's certificate, license, or permit was issued takes disciplinary action resulting in the suspension or revocation, including stayed suspension, stayed revocation, or probation of the individual's certificate, license, or permit, or takes other disciplinary action against the individual's certificate, license, or permit that arises from any of the following:

(A) Gross negligence, recklessness, or intentional wrongdoing relating to the practice of public accountancy.

(B) Fraud or misappropriation of funds.

(C) Preparation, publication, or dissemination of false, fraudulent, or materially incomplete or misleading financial statements, reports, or information.

(7) Shall cease exercising the practice privilege in this state if convicted in any jurisdiction of any crime involving dishonesty, including, but not limited to, embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(8) Shall cease exercising the practice privilege if the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board bars the individual from practicing before them.

(9) Shall cease exercising the practice privilege if any governmental body or agency suspends the right of the individual to practice before the body or agency.

(10) Shall report to the board in writing any pending criminal charges, other than for a minor traffic violation, in any jurisdiction within 30 days of the date the individual has knowledge of those charges.

(f) An individual who is required to cease practice pursuant to paragraphs (6) to (9), inclusive, of subdivision (e) shall notify the board within 15 calendar days, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until he or she has received from the board written permission to do so.

(g) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by subdivision (f) shall be subject to the personal and subject

matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or (f) shall, for a minimum of one year from the date the board learns there has been a violation of subdivision (e) or (f), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual's practice privilege shall be revoked and there shall be no possibility of reinstatement for a minimum of two years.

(h) The board shall require an individual who provides notice to the board pursuant to subdivision (f) to cease the practice of public accountancy in this state until the board provides the individual with written permission to resume the practice of public accountancy in this state.

(i) (1) An individual to whom, within the last seven years immediately preceding the date on which he or she wishes to practice in this state, any of the following criteria apply, shall notify the board, on a form prescribed by the board, and shall not practice public accountancy in this state pursuant to this section until the board provides the individual with written permission to do so:

(A) He or she has been the subject of any final disciplinary action by the licensing or disciplinary authority of any other jurisdiction with respect to any professional license or has any charges of professional misconduct pending against him or her in any other jurisdiction.

(B) He or she has had his or her license in another jurisdiction reinstated after a suspension or revocation of the license.

(C) He or she has been denied issuance or renewal of a professional license or certificate in any other jurisdiction for any reason other than an inadvertent administrative error.

(D) He or she has been convicted of a crime or is subject to pending criminal charges in any jurisdiction other than a minor traffic violation.

(E) He or she has otherwise acquired a disqualifying condition as described in subdivision (a) of Section 5096.2.

(2) An individual who fails to cease practice as required by subdivision (e) or who fails to provide the notice required by paragraph (1) shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board as if the practice privilege were a license and the individual were a licensee. An individual in violation of subdivision (e) or paragraph (1) shall, for a minimum of one year from the date the board knows there has been a violation of subdivision (e) or paragraph (1), not practice in this state and shall not have the possibility of reinstatement during that period. If the board determines that the failure to cease practice or provide the notice was intentional, that individual shall be

prohibited from practicing in this state in the same manner as if a licensee has his or her practice privilege revoked and there shall be no possibility of reinstatement for a minimum of two years.

(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

#### **5096. Practice Privilege General Requirements (Effective January 1, 2019)**

(a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least four of the last 10 years.

(2) The individual has a license, certificate, or permit from a state which has been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure which have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) To obtain a practice privilege under this section, an individual who meets the requirements of subdivision (a), shall do the following:

(1) In the manner prescribed by board regulation, notify the board of the individual's intent to practice.

(2) Pay a fee as provided in Article 8 (commencing with Section 5130).

(d) Except as otherwise provided by this article or by board regulation, the practice privilege commences when the individual notifies the board, provided the fee is received by the board within 30 days of that date. The board shall permit the notification to be provided electronically.

(e) An individual who holds a practice privilege under this article:

(1) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state.

(2) Shall comply with the provisions of this chapter, board regulations, and other laws, regulations, and professional standards applicable to the practice of public accountancy by the licensees of this state and to any other laws and regulations applicable to individuals practicing under practice privileges in this state except the individual is deemed, solely for the purpose of this article, to have met the continuing education requirements and ethics examination requirements of this state when such individual has met the examination and continuing education requirements of the state in which the individual holds the valid license, certificate, or permit on which the substantial equivalency is based.

(3) Shall not provide public accountancy services in this state from any office located in this state, except as an employee of a firm registered in this state. This paragraph does not apply to public accountancy services provided to a client at the client's place of business or residence.

(4) Is deemed to have appointed the regulatory agency of the state that issued the individual's certificate, license, or permit upon which substantial equivalency is based as the individual's agent on whom notices, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(5) Shall cooperate with any board investigation or inquiry and shall timely respond to a board investigation, inquiry, request, notice, demand, or subpoena for information or documents and timely provide to the board the identified information and documents.

(f) A practice privilege expires one year from the date of the notice, unless a shorter period is set by board regulation.

(g) (1) No individual may practice under a practice privilege without prior approval of the board if the individual has, or acquires at any time during the term of the practice privilege, any disqualifying condition under paragraph (2) of this subdivision.

(2) Disqualifying conditions include:

(A) Conviction of any crime other than a minor traffic violation.

(B) Revocation, suspension, denial, surrender, or other discipline or sanctions involving any license, permit, registration, certificate, or other authority to practice any profession in this or any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board.

(C) Pendency of any investigation, inquiry, or proceeding by or before any



state, federal or local court or agency, including, but not limited to, the Public Company Accounting Oversight Board, involving the professional conduct of the individual.

(D) Any judgment or arbitration award against the individual involving the professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or greater.

(E) Any other conditions as specified by the board in regulation.

(3) The board may adopt regulations exempting specified minor occurrences of the conditions listed in subparagraph (B) of paragraph (2) from being disqualifying conditions under this subdivision.

(h) This section shall become operative on January 1, 2019.

### **5096.1. Practice Without Notice (Operative July 1, 2013; Repealed January 1, 2019)**

(a) Any individual, not a licensee of this state, who is engaged in any act which is the practice of public accountancy in this state, and who does not qualify to practice pursuant to the practice privilege described in Section 5096 and who has a license, certificate, or other authority to engage in the practice of public accountancy in any other state, regardless of whether active, inactive, suspended, or subject to renewal on payment of a fee or completion of an educational or ethics requirement, is:

(1) Deemed to be practicing public accountancy unlawfully in this state.

(2) Subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state to the same extent as a holder of a valid practice privilege.

(3) Deemed to have appointed the regulatory agency of the state that issued the individual's certificate or license as the individual's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(b) The board may revoke a practice privilege from any individual who has violated this section or implementing regulations or committed any act which would be grounds for discipline against the holder of a practice privilege.

(c) This section shall become operative on July 1, 2013.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

### **5096.1. Practice Without Notice (Operative January 1, 2019)**

(a) Any individual, not a licensee of this state, who is engaged in any act which is the practice of public accountancy in this state, and who has not given notice of intent to practice under practice privileges and paid the fee required pursuant to the provisions of this article, and who has a license, certificate, or other authority to engage in the practice of public accountancy in any other state, regardless of whether active, inactive, suspended, or subject to renewal on payment of a fee or completion of an educational or ethics requirement, is:

(1) Deemed to be practicing public accountancy unlawfully in this state.

(2) Subject to the personal and subject matter jurisdiction and disciplinary authority of the board and the courts of this state to the same extent as a holder of a valid practice privilege.

(3) Deemed to have appointed the regulatory agency of the state that issued the individual's certificate or license as the individual's agent on whom notice, subpoenas, or other process may be served in any action or proceeding by the board against the individual.

(b) The board may prospectively deny a practice privilege to any individual who has violated this section or implementing regulations or committed any act which would be grounds for discipline against the holder of a practice privilege.

(c) This section shall become operative on January 1, 2019.

### **5096.2. Denial of a Practice Privilege (Operative July 1, 2013)**

(a) (1) Practice privileges may be revoked for any of the following reasons:

(A) If an individual no longer qualifies under, or complies with, the provisions of this article, including, but not limited to, Section 5096, or implementing regulations.

(B) If an individual commits any act that if committed by an applicant for licensure would be grounds for denial of a license under Section 480.

(C) If an individual commits any act that if committed by a licensee would be grounds for discipline under Section 5100.

(D) If an individual commits any act outside of this state that would be a violation if committed within this state.

(E) If an individual acquires at any time, while exercising the practice privilege, any disqualifying condition under paragraph (2).

(2) Disqualifying conditions include:

(A) Conviction of any crime other than a minor traffic violation.

(B) Revocation, suspension, denial, surrender, or other discipline or sanctions involving any license, permit, registration, certificate, or other authority to practice any profession in this or any other state or foreign country or to practice before any state, federal, or local court or agency, or the Public Company Accounting Oversight Board.

(C) Any judgment or arbitration award against the individual involving the professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or greater.

(D) Any other conditions as specified by the board in regulation.

(3) The board may adopt regulations exempting specified minor occurrences of the conditions listed in subparagraph (B) of paragraph (2) from being disqualifying conditions under this subdivision.

(b) The board may revoke practice privileges using either of the following procedures:

(1) Notifying the individual in writing of all of the following:

(A) That the practice privilege is revoked.

(B) The reasons for revocation.

(C) The earliest date on which the individual may qualify for a practice privilege.

(D) That the individual has a right to appeal the notice and request a hearing under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) if a written notice of appeal and request for hearing is made within 60 days.

(E) That, if the individual does not submit a notice of appeal and request for hearing within 60 days, the board's action set forth in the notice shall become final.

(2) Filing a statement of issues under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) An individual whose practice privilege has been revoked may only subsequently exercise the practice privilege upon application to the board for reinstatement of the practice privilege not less than one year after the effective date of the notice or decision

revoking the practice privilege, unless a longer time period is specified in the notice or decision revoking the practice privilege.

(d) Holders of practice privileges are subject to suspension, citations, fines, or other disciplinary actions for any conduct that would be grounds for discipline against a licensee of the board or for any conduct in violation of this article or regulations adopted thereunder.

(e) The board may recover its costs pursuant to Section 5107 as part of any disciplinary proceeding against the holder of a practice privilege.

(f) The provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board, shall apply under this article.

(g) If the board revokes or otherwise limits an individual's practice privilege, the board shall promptly notify the regulatory agency of the state or states in which the individual is licensed, and the United States Securities and Exchange Commission, the Public Company Accounting Oversight Board, and the National Association of State Boards of Accountancy.

(h) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

#### **5096.2. Denial of a Practice Privilege (Operative January 1, 2019)**

(a) Practice privileges may be denied for failure to qualify under or comply with the provisions of this article or implementing regulations, or for any act that if committed by an applicant for licensure would be grounds for denial of a license under Section 480 or if committed by a licensee would be grounds for discipline under Section 5100, or for any act committed outside of this state that would be a violation if committed within this state.

(b) The board may deny practice privileges using either of the following procedures:

(1) Notifying the individual in writing of all of the following:

(A) That the practice privilege is denied.

(B) The reasons for denial.

(C) The earliest date on which the individual is eligible for a practice privilege.

(D) That the individual has a right to appeal the notice and request a hearing under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section

11340) of Part 1 of Division 3 of Title 2 of the Government Code) if a written notice of appeal and request for hearing is made within 60 days.

(E) That, if the individual does not submit a notice of appeal and request for hearing within 60 days, the board's action set forth in the notice shall become final.

(2) Filing a statement of issues under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) An individual who had been denied a practice privilege may apply for a new practice privilege not less than one year after the effective date of the notice or decision denying the practice privilege unless a longer time period, not to exceed three years, is specified in the notice or decision denying the practice privilege.

(d) This section shall become operative on January 1, 2019.

**5096.3. Revocation, suspension, fines and other disciplinary sanctions; Time period; Costs; Applying after revocation; Applicability of Administrative Procedure Act (Operative January 1, 2019)**

(a) Practice privileges are subject to revocation, suspension, fines, or other disciplinary sanctions for any conduct that would be grounds for discipline against a licensee of the board or for any conduct in violation of this article or regulations implementing this article.

(b) Practice privileges are subject to discipline during any time period in which they are valid, under administrative suspension, or expired.

(c) The board may recover its costs pursuant to Section 5107 as part of any disciplinary proceeding against the holder of a practice privilege.

(d) An individual whose practice privilege has been revoked may apply for a new practice privilege not less than one year after the effective date of the board's decision revoking the individual's practice privilege unless a longer time period, not to exceed three years, is specified in the board's decision revoking the practice privilege.

(e) The provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including, but not limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the board shall apply under this article.

(f) This section shall become operative on January 1, 2019.

**5096.4. Administrative Suspension of a Practice Privilege (Operative July 1, 2013; Repealed January 1, 2019)**

(a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation. The board shall consult the Public Company Accounting Oversight Board and the United States Securities and Exchange Commission at least once every six months to identify out-of-state licensees who may have disqualifying conditions or who may be obliged to cease practice, and shall disclose, pursuant to this subdivision, whether those out-of-state licensees are lawfully permitted to exercise the privilege. Disclosure of this information shall not be considered discipline.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this article.

(c) The administrative suspension order shall contain the following:

(1) The reason for the suspension.

(2) A statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing.

(3) A statement that any appeal hearing will be conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the revocation of practice privileges.

(d) The burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state.

(g) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for revocation or discipline of a practice privilege.

(h) This section shall become operative on July 1, 2013.

(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

**5096.4. Administrative Suspension of a Practice Privilege (Operative January 1, 2019)**

(a) The right of an individual to practice in this state under a practice privilege may be administratively suspended at any time by an order issued by the board or its executive officer, without prior notice or hearing, for the purpose of conducting a disciplinary investigation, proceeding, or inquiry concerning the representations made in the notice, the individual's competence or qualifications to practice under practice privileges, failure to timely respond to a board inquiry or request for information or documents, or under other conditions and circumstances provided for by board regulation.

(b) The administrative suspension order is immediately effective when mailed to the individual's address of record or agent for notice and service as provided for in this article.

(c) The administrative suspension order shall contain the following:

(1) The reason for the suspension.

(2) A statement that the individual has the right, within 30 days, to appeal the administrative suspension order and request a hearing.

(3) A statement that any appeal hearing will be conducted under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) applicable to individuals who are denied licensure, including the filing of a statement of issues by the board setting forth the reasons for the administrative suspension of practice privileges and specifying the statutes and rules with which the individual must show compliance by producing proof at the hearing and in addition any particular matters that have come to the attention of the board and that would authorize the administrative suspension, or the denial of practice privileges.

(d) The burden is on the holder of the suspended practice privilege to establish both qualification and fitness to practice under practice privileges.

(e) The administrative suspension shall continue in effect until terminated by an order of the board or the executive officer or expiration of the practice privilege under administrative suspension.

(f) Administrative suspension is not discipline and shall not preclude any individual from applying for a license to practice public accountancy in this state or from applying for a new practice privilege upon expiration of the one under administrative suspension, except that the new practice privilege shall not be effective until approved by the board.

(g) Notwithstanding any administrative suspension, a practice privilege expires one year from the date of notice unless a shorter period is set by board regulation.

(h) Proceedings to appeal an administrative suspension order may be combined or coordinated with proceedings for denial or discipline of a practice privilege.

(i) This section shall become operative on January 1, 2019.

**5096.5. Signing Attest Reports (Operative July 1, 2013; Repealed January 1, 2019)**

(a) Notwithstanding any other provision of this article, an individual may not sign any attest report pursuant to a practice privilege unless the individual meets the experience requirements of Section 5095.

(b) This section shall become operative on July 1, 2013.

(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

**5096.5. Signing Attest Reports (Operative January 1, 2019)**

(a) Notwithstanding any other provision of this article, an individual may not sign any attest report pursuant to a practice privilege unless the individual meets the experience requirements of Section 5095 and completes any continuing education or other conditions required by the board regulations implementing this article.

(b) This section shall become operative on January 1, 2019.

**5096.6. Delegation of Authority, Executive Officer (Operative July 1, 2013; Repealed January 1, 2019)**

(a) In addition to the authority otherwise provided for by this code, the board may delegate to the executive officer the authority to issue any notice or order provided for in this article and to act on behalf of the board, including, but not limited to, issuing an interim suspension order, subject to the right of the individual to timely appeal and request a hearing as provided for in this article.

(b) This section shall become operative on July 1, 2013.



(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

**5096.6. Delegation of Authority, Executive Officer (Operative January 1, 2019)**

(a) In addition to the authority otherwise provided for by this code, the board may delegate to the executive officer the authority to issue any notice or order provided for in this article and to act on behalf of the board, including, but not limited to, issuing a notice of denial of a practice privilege and an interim suspension order, subject to the right of the individual to timely appeal and request a hearing as provided for in this article.

(b) This section shall become operative on January 1, 2019.

**5096.7. Definitions (Operative July 1, 2012; Repealed January 1, 2019)**

(a) Anywhere the term “license,” “licensee,” “permit,” or “certificate” is used in this chapter or Division 1.5 (commencing with Section 475), it shall include persons holding practice privileges under this article, unless otherwise inconsistent with the provisions of the article.

(b) Anywhere the term “employee” is used in this article it shall include, but is not limited to, partners, shareholders, and other owners.

(c) For purposes of this article, the term “license” includes certificate or permit.

(d) This section shall become operative on July 1, 2013.

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

**5096.7. Definitions (Operative January 1, 2019)**

Except as otherwise provided in this article, the following definitions apply:

(a) Anywhere the term “license,” “licensee,” “permit,” or “certificate” is used in this chapter or Division 1.5 (commencing with Section 475), it shall include persons holding practice privileges under this article, unless otherwise inconsistent with the provisions of the article.

(b) Any notice of practice privileges under this article and supporting documents is deemed an application for licensure for purposes of the provisions of this code, including, but not limited to, the provisions of this chapter and the provisions of Division 1.5 (commencing with Section 475) related to the denial, suspension, and revocation of licenses.

(c) Anywhere the term “employee” is used in this article it shall include, but is not limited to, partners, shareholders, and other owners.

(d) This section shall become operative on January 1, 2019.

#### **5096.8. Investigation Authority**

In addition to the authority otherwise provided by this code, all investigative powers of the board, including those delegated to the executive officer, shall apply to investigations concerning compliance with, or actual or potential violations of, the provisions of this article or implementing regulations, including, but not limited to, the power to conduct investigations and hearings by the executive officer under Section 5103 and to issuance of subpoenas under Section 5108.

#### **5096.9. Authority to Adopt Regulations**

(a) The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this article.

(b) The board shall adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to establish policies, guidelines, and procedures to initially implement this article as it goes into effect on July 1, 2013. The adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State in accordance with the Administrative Procedure Act.

#### **5096.10. Operation of article dependent on appropriation (Operative January 1, 2019)**

(a) The provisions of this article shall only be operative if there is an appropriation from the Accountancy Fund in the annual Budget Act to fund the activities in the article and sufficient hiring authority is granted pursuant to a budget change proposal to the board to provide staffing to implement this article.

(b) This section shall become operative on January 1, 2019.

#### **5096.12. Limited Firm Practice (Operative July 1, 2013; Repealed January 1, 2019)**

(a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), issue a citation and fine pursuant to Section 125.9, or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) A firm that provides the services described in subdivision (d) of Section 5096 shall obtain a registration from the board.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

#### **5096.12. Limited Firm Practice (Operative January 1, 2019)**

(a) A certified public accounting firm that is authorized to practice in another state and that does not have an office in this state may engage in the practice of public accountancy in this state through the holder of a practice privilege provided that:

(1) The practice of public accountancy by the firm is limited to authorized practice by the holder of the practice privilege.

(2) A firm that engages in practice under this section is deemed to consent to the personal, subject matter, and disciplinary jurisdiction of the board with respect to any practice under this section.

(b) The board may revoke, suspend, issue a fine pursuant to Article 6.5 (commencing with Section 5116), or otherwise restrict or discipline the firm for any act that would be grounds for discipline against a holder of a practice privilege through which the firm practices.

(c) This section shall become operative on January 1, 2019.

#### **5096.13. Contents of application to practice by out-of-state practitioners (Operative January 1, 2019)**

(a) The notification of intent to practice under a practice privilege pursuant to Section 5096 shall include the name of the firm, its address and telephone number, and its federal taxpayer identification number.

(b) This section shall become operative on January 1, 2019.

**5096.14. Practice before board notification not a violation; Conditions; Application; Fine (Operative January 1, 2019)**

(a) An individual shall not be deemed to be in violation of this article solely because he or she begins the practice of public accounting in California prior to notifying the board as indicated in subdivision (c) of Section 5096, provided the notice is given within five business days of the date practice begins. An individual who properly notifies the board within the five-day period provided for in this section shall be deemed to have a practice privilege from the first day of practice in California unless the individual fails to timely submit the required fee pursuant to subdivision (c) of Section 5096.

(b) Subdivision (a) does not apply in those instances in which prior approval by the board is required pursuant to subdivision (g) of Section 5096.

(c) In addition to any other applicable sanction, the board may issue a fine pursuant to Section 5096.3 for notifying the board more than five business days after beginning practice in California.

(d) This section shall become operative on January 1, 2019.

**5096.15. Adoption of fees for out-of-state practitioner who do not sign attest reports for California clients (Operative January 1, 2019)**

(a) It is the intent of the Legislature that the board adopt regulations providing for a lower fee or no fee for out-of-state accountants who do not sign attest reports for California clients under the practice privilege. These regulations shall ensure that the practice privilege program is adequately funded. These regulations shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and, for purposes of that chapter, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(b) This section shall become operative on January 1, 2019.

**5096.20. Information on Out-of-State Licensees with Disqualifying Conditions**

(a) To ensure that Californians are protected from out-of-state licensees with disqualifying conditions who may unlawfully attempt to practice in this state under a practice privilege, prior to July 1, 2013, the board shall add an out-of-state licensee feature to its license lookup tab of the home page of its Internet Web site that allows consumers to obtain information about an individual whose principal place of business is not in this state and who seeks to exercise a practice privilege in this state, that is at least equal to the information that was available to consumers through its home page prior to January 1,

2013, through the practice privilege form previously filed by out-of-state licensees pursuant to Section 5096, as added by Chapter 921 of the Statutes of 2004, and the regulations adopted thereunder. At minimum, these features shall include all of the following:

(1) The ability of the consumer to search by name and state of licensure.

(2) The disclosure of information in the possession of the board, which the board is otherwise authorized to publicly disclose, about an individual exercising a practice privilege in this state, including, but not limited to, whether the board has taken action of any form against that individual and, if so, what the action was or is.

(3) A disclaimer that the consumer must click through prior to being referred to any other Internet Web site, which in plain language explains that the consumer is being referred to an Internet Web site that is maintained by a regulatory agency or other entity that is not affiliated with the board. This disclaimer shall include a link to relevant sections of this article that set forth disqualifying conditions, including, but not limited to, Section 5096.2.

(4) A statement in plain language that notifies consumers that they are permitted to file complaints against such individuals with the board.

(5) A link to the Internet Web site or sites that the board determines, in its discretion, provides the consumer the most complete and reliable information available about the individual's status as a license holder, permit holder, or certificate holder.

(6) If the board of another state does not maintain an Internet Web site that allows a consumer to obtain information about its licensees including, but not limited to, disciplinary history, and that information is not available through a link to an Internet Web site maintained by another entity, a link to contact information for that board, which contains a disclaimer in plain language that explains that the consumer is being referred to a board that does not permit the consumer to obtain information, including, but not limited to, disciplinary history, about individuals through the Internet Web site, and that the out-of-state board is not affiliated with the board.

(b) The board shall biennially survey the Internet Web sites and disclosure policies of other boards to ensure that its disclaimers are accurate.

(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

#### **5096.21. Determination Regarding Out-of-State Practitioners**

(a)(1) On and after January 1, 2016, if the board determines, through a majority vote of the board at a regularly scheduled meeting, that allowing individuals from a particular state to practice in this state pursuant to a practice privilege as described in Section 5096, violates the board's duty to protect the public, pursuant to Section 5000.1, the board shall require, by regulation, out-of-state individuals licensed from that state, as a condition to exercising a practice privilege in this state, to file the notification form and pay the applicable fees as required by former Section 5096, as added by Chapter 921 of the Statutes of 2004, and regulations adopted thereunder.

(2) The board may adopt emergency regulations, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), to implement this subdivision. The adoption of the regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code.

(b) The board shall, at minimum, consider the following factors in making the determination required by subdivision (a):

(1) Whether the state timely and adequately addresses enforcement referrals made by the board to the accountancy regulatory board of that state, or otherwise fails to respond to requests the board deems necessary to meet its obligations under this article.

(2) Whether the state makes the disciplinary history of its licensees publicly available through the Internet in a manner that allows the board to adequately link consumers to an Internet Web site to obtain information that was previously made available to consumers about individuals from the state prior to January 1, 2013, through the notification form.

(3) Whether the state imposes discipline against licensees that is appropriate in light of the nature of the alleged misconduct.

(c) Notwithstanding subdivision (a), if (1) the National Association of State Boards of Accountancy (NASBA) adopts enforcement best practices guidelines, (2) the board, upon a majority vote at a regularly scheduled board meeting, issues a finding after a public hearing that those practices meet or exceed the board's own enforcement practices, (3) a state has in place and is operating pursuant to enforcement practices substantially equivalent to the best practices guidelines, and (4) disciplinary history of a state's licensees is publicly available through the Internet in a manner that allows the board to link consumers to an Internet Web site to obtain information at least equal to the information that was previously available to consumers through the practice privilege form filed by out-of-state licensees pursuant to former Section 5096, as added by Chapter 921 of the Statutes of 2004, no practice privilege form shall be required to be filed by any licensee of that state as required by subdivision (a), nor shall the board be required to report on that state to the Legislature as required by subdivision (d).

(d) (1) The board shall report to the relevant policy committees of the Legislature, the director, and the public, upon request, preliminary determinations made pursuant to this section no later than July 1, 2015. The board shall, prior to January 1, 2016, and thereafter as it deems appropriate, review its determinations made pursuant to subdivision (b) to ensure that it is in compliance with this section.

(2) This subdivision shall become inoperative on July 1, 2017, pursuant to Section 10231.5 of the Government Code.

(e) On or before July 1, 2014, the board shall convene a stakeholder group consisting of members of the board, board enforcement staff, and representatives of the accounting profession and consumer representatives to consider whether the provisions of this article are consistent with the board's duty to protect the public consistent with Section 5000.1, and whether the provisions of this article satisfy the objectives of stakeholders of the accounting profession in this state, including consumers. The group, at its first meeting, shall adopt policies and procedures relative to how it will conduct its business, including, but not limited to, policies and procedures addressing periodic reporting of its findings to the board.

(f) On or before January 1, 2018, the board shall prepare a report to be provided to the relevant policy committees of the Legislature, the director, and the public, upon request, that, at minimum, explains in detail all of the following:

(1) How the board has implemented this article and whether implementation is complete.

(2) Whether this article is, in the opinion of the board, more, less, or equivalent in the protection it affords the public than its predecessor article.

(3) Describes how other state boards of accountancy have addressed referrals to those boards from the board, the timeframe in which those referrals were addressed, and the outcome of investigations conducted by those boards.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

## **Article 5.5 - Audit Documentation**

### **5097. Audit Documentation Requirements**

(a) Audit documentation shall be a licensee's records of the procedures applied, the tests performed, the information obtained, and the pertinent conclusions reached in an audit

engagement. Audit documentation shall include, but is not limited to, programs, analyses, memoranda, letters of confirmation and representation, copies or abstracts of company documents, and schedules or commentaries prepared or obtained by the licensee.

(b) Audit documentation shall contain sufficient documentation to enable a reviewer with relevant knowledge and experience, having no previous connection with the audit engagement, to understand the nature, timing, extent, and results of the auditing or other procedures performed, evidence obtained, and conclusions reached, and to determine the identity of the persons who performed and reviewed the work.

(c) Failure of the audit documentation to document the procedures applied, tests performed, evidence obtained, and relevant conclusions reached in an engagement shall raise a presumption that the procedures were not applied, tests were not performed, information was not obtained, and relevant conclusions were not reached. This presumption shall be a rebuttable presumption affecting the burden of proof relative to those portions of the audit that are not documented as required in subdivision (b). The burden may be met by a preponderance of the evidence.

(d) Audit documentation shall be maintained by a licensee for the longer of the following:

(1) The minimum period of retention provided in subdivision (e).

(2) A period sufficient to satisfy professional standards and to comply with applicable laws and regulations.

(e) Audit documentation shall be maintained for a minimum of seven years which shall be extended during the pendency of any board investigation, disciplinary action, or legal action involving the licensee or the licensee's firm. The board may adopt regulations to establish a different retention period for specific categories of audit documentation where the board finds that the nature of the documentation warrants it.

(f) Licensees shall maintain a written documentation retention and destruction policy that shall set forth the licensee's practices and procedures complying with this article.

### **5098. Audit Documentation Regulations**

The board may adopt regulations to implement, interpret, and make specific provisions relating to the following:

(a) Requirements for licensees maintaining an audit documentation retention policy and procedures for review and approval of audit documentation destruction.

(b) Procedures for the identification, dating, and retention of audit documentation.



## **Article 6 - Disciplinary Proceedings**

### **5100. Discipline in General**

After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

(b) A violation of Section 478, 498, or 499 dealing with false statements or omissions in the application for a license, in obtaining a certificate as a certified public accountant, in obtaining registration under this chapter, or in obtaining a permit to practice public accountancy under this chapter.

(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(d) Cancellation, revocation, or suspension of a certificate or other authority to practice as a certified public accountant or a public accountant, refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.

(e) Violation of Section 5097.

(f) Violation of Section 5120.

(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(h) Suspension or revocation of the right to practice before any governmental body or agency.

(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

(j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

(k) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(l) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation.

(m) Unlawfully engaging in the practice of public accountancy in another state.

### **5100.5 Permanent License Restrictions**

(a) After notice and hearing the board may, for unprofessional conduct, permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a license, which prohibits the licensee from performing or engaging in any of the acts or services described in Section 5051.

(b) A licensee may petition the board pursuant to Section 5115 for reduction of penalty or reinstatement of the privilege to engage in the service or act restricted or limited by the board.

(c) The authority or sanctions provided by this section are in addition to any other civil, criminal, or administrative penalties or sanctions provided by law, and do not supplant, but are cumulative to, other disciplinary authority, penalties, or sanctions.

(d) Failure to comply with any restriction or limitation imposed by the board pursuant to this section is grounds for revocation of the license.

(e) For purposes of this section, both of the following shall apply:

(1) "Unprofessional conduct" includes, but is not limited to, those grounds for discipline or denial listed in Section 5100.

(2) "Permanently restrict or limit the practice of" includes, but is not limited to, the prohibition on engaging in or performing any attestation engagement, audits, or compilations.

### **5101. Discipline of Partnership**

After notice and hearing the board shall revoke the registration and permit to practice of a partnership if at any time it does not have all the qualifications prescribed by the section of this chapter under which it qualified for registration. After notice and hearing the board may revoke, suspend or refuse to renew the permit to practice of a partnership or may censure the holder of such permit for any of the causes enumerated in Section 5100 and for the following additional causes:

(a) The revocation or suspension of the certificate or registration or the revocation or suspension of or refusal to renew the permit to practice of any partner.

(b) The cancellation, revocation or suspension of certificate or other authority to practice or refusal to renew the certificate or other authority of the partnership of any partner thereof to practice public accountancy in any other state.

### **5102. Powers and Proceedings**

The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing at Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

### **5103. Investigations**

(a) Notwithstanding any other provision of law, the board may inquire into any alleged violation of this chapter or any other state or federal law, regulation, or rule relevant to the practice of accountancy.

(b) The board, or its executive officer pursuant to a delegation of authority from the board, is authorized to perform the following functions:

(1) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of licensees, as directed by the board, or as directed by the executive officer pursuant to a delegation of authority from the board.

(2) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving any violation or alleged violation of this chapter by licensees, as directed by the board, or as directed by the executive officer pursuant to a delegation of authority from the board.

### **5103.5. Notice of Formal Accusations**

(a) The board shall post on its Internet Web site, in an easily marked and identifiable location, notice of all formal accusations. The notice of any formal accusation shall contain a link to where a person may request and have sent to him or her a copy of the formal accusation, and the basis for the accusation and alleged violations filed by the board against a licensee.

(b) The link to where a person may request and have sent to him or her a copy of the formal accusation shall be clearly and conspicuously located on the same Internet Web site

page on which the notice is posted and shall authorize a person to request and receive the information described in subdivision (a) by regular mail or electronic mail.

(c) The board shall develop a statement that informs any person requesting a copy of a formal accusation and any person receiving a copy of a formal accusation that any allegations contained in the accusation are not a final determination of wrongdoing and are subject to adjudication and final review by the board pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). This statement shall be provided to a person requesting and receiving a copy of a formal accusation in a manner to be determined by the board.

#### **5104. Relinquishment of Certificate or Permit**

Any certified public accountant or public accountant whose certificate, registration, or permit has been revoked or suspended shall upon request of the board relinquish his or her certificate or permit. However, upon the expiration of the period of suspension, the board shall immediately return any suspended certificate or permit which has been relinquished.

#### **5105. Delinquency in Payment of Renewal Fee**

Any certified public accountant or public accountant who is delinquent in the payment of his renewal fee shall upon request of the board relinquish his certificate and permit; provided, however, the board shall reissue any certificate and permit which has been relinquished for nonpayment of renewal fees if the permit is renewed as provided in Section 5070.6.

#### **5106. Conviction Defined**

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The record of the conviction shall be conclusive evidence thereof. The board may order the certificate or permit suspended or revoked, or may decline to issue a certificate or permit, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made, suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty or dismissing the accusation, information or indictment.

#### **5107. Payment of Disciplinary Costs; Conditional Renewal**

(a) The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not

limited to, attorney's fees. The board shall not recover costs incurred at the administrative hearing.

(b) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the executive officer, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.

(c) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested to do so by the executive officer pursuant to subdivision (a). Costs are payable 120 days after the board's decision is final, unless otherwise provided for by the administrative law judge or if the time for payment is extended by the board.

(d) The finding of the administrative law judge with regard to cost shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested by the executive officer pursuant to subdivision (a).

(e) The administrative law judge may make a further finding that the amount of reasonable costs awarded shall be reduced or eliminated upon a finding that respondent has demonstrated that he or she cannot pay all or a portion of the costs or that payment of the costs would cause an unreasonable financial hardship which cannot be remedied through a payment plan.

(f) When an administrative law judge makes a finding that costs be waived or reduced, he or she shall set forth the factual basis for his or her finding in the proposed decision.

(g) Where an order for recovery of costs is made and timely payment is not made as directed by the board's decision, the board may enforce the order for payment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any holder of a permit or certificate directed to pay costs.

(h) In a judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms of payment.

(i) All costs recovered under this section shall be deposited in the Accountancy Fund.

(j) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the permit or certificate of a holder who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1) or paragraph (2) of subdivision (g) of Section 125.3, the board may, in its discretion, conditionally renew or reinstate for a maximum of three years the permit or certificate of a holder who demonstrates financial hardship and who enters

into a formal agreement with the board to reimburse the board within that three-year period for those unpaid costs.

(k) Nothing in this section shall preclude the board from seeking recovery of costs in an order or decision made pursuant to an agreement entered into between the board and the holder of a permit or certificate.

(l) (1) Costs may not be recovered under this section as a result of a citation issued pursuant to Section 125.9 and its implementing language if the licensee complies with the citation.

(2) The Legislature hereby finds and declares that this subdivision is declaratory of existing law.

### **5108. Subpoenas**

In connection with any investigation or action authorized by this chapter, the board may issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony pertinent or material to its inquiry, investigation, hearing, proceeding, or action conducted in any part of the state.

### **5109. Jurisdiction Over Expired, Cancelled, Forfeited, Suspended, or Surrendered License**

The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license.

### **5110. False Statements in Application; Exam Cheating**

(a) After notice and an opportunity for a hearing, the board may deny an application to take the licensing examination, deny admission to current and future licensing examinations, void examination grades, and deny an application for a license or registration to any individual who has committed any of the following acts:

(1) Made any false, fraudulent, or materially misleading statement or a material omission in any application for a license, examination, or registration.

(2) Cheated or subverted or attempted to subvert any licensing examination.

(3) Aided, abetted, or conspired with any other person to violate paragraph (1) or (2).

(4) Any act that if committed by an applicant for licensure would be grounds for denial of a license or registration under Section 480 or if committed by a licensee or a registrant would be grounds for discipline under Section 5100.

(5) Any act committed outside of this state that would be a violation of this article if committed within this state.

(b) Neither the withdrawal of an application for examination, licensure, or registration, nor the expulsion or voluntary departure from an examination shall deprive the board of its authority to deny an application for, or admittance to, current or future licensing examinations, or to commence or continue a proceeding based on a violation of this article.

(c) Nothing in this article shall be construed to limit the authority of the board to refuse admittance to or to remove from the licensing examination, any person suspected of cheating or failing to comply with examination procedures or requirements.

(d) The term "licensing examination" includes the Uniform Certified Public Accountant examination, ethics examination, and any other professional or vocational licensing examination offered or administered by, or through, the board or other agencies within or outside of this state, for professional or vocational licensing purposes.

(e) The board may take any of the actions described in subdivision (a) based upon any determination, decision, ruling, or finding made by any state or other governmental entity, foreign or domestic, that any individual has committed any of the actions described in paragraphs (1) to (5), inclusive, of subdivision (a).

(f) The provisions of this section are in addition to any other remedies that may be available under other provisions of law including, but not limited to, those set forth in Sections 123, 480, and 496.

### **5111. Cheating Defined**

Cheating on, or subverting or attempting to subvert any licensing examination includes, but is not limited to, engaging in, soliciting, or procuring any of the following:

(a) Any communication between one or more examinees and any person, other than a proctor or examination official, while the examination is in progress.

(b) Any communication between one or more examinees and any other person at any time concerning the content of the examination including, but not limited to, any examination question or answer, unless the examination has been publicly released by the examining authority or jurisdiction.

(c) The taking of all or a part of the examination by a person other than the applicant.

(d) Possession or use at any time during the examination or while the examinee is on the examination premises of any device, material, or document that is not expressly authorized for use by examinees during the examination including, but not limited to, notes, crib sheets, textbooks, and electronic devices.

(e) Failure to follow any examination instruction or rule related to examination security.

(f) Providing false, fraudulent, or materially misleading information concerning education, experience, or other qualifications as part of, or in support of, any application for admission to any professional or vocational examination.

### **5112. Procedure; Limitation on Actions**

(a) The board may deny an application to take the licensing examination, deny admittance to current and future licensing examinations, and void examination grades on the grounds set forth in Section 5110 using either of the following procedures:

(1) Notifying the individual in writing of all of the following:

(A) The action the board has taken.

(B) The reasons the action was taken.

(C) The earliest date on which the individual may reapply for admittance to the licensing examination.

(D) The individual's right to a hearing under the provisions of Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code if a written request for a hearing is made within 60 days from the date of the board's notice. If the individual does not request a hearing, the board's action shall become final at the expiration of this 60-day period.

(2) Filing and serving a statement of issues in accordance with Section 11504 of the Government Code.

(b) The board shall issue the notice of action under paragraph (1) of subdivision (a) or file and serve the statement of issues under paragraph (2) of subdivision (a) within five years of the last day of the examination with respect to which the alleged prohibited act was committed or within three years of the discovery of the commission of the alleged prohibited act, whichever occurs later.

### **5113. Readmission to the Examination**

An individual who has been denied admission to the licensing examination under Section 5110 may petition the board for admission to the Certified Public Accountant examination



not less than one year after the effective date of the decision issued by the board following a hearing held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code or, if there was no hearing, may petition the board not less than one year after the decision or action pursuant to the notice of action issued by the board becomes final as provided in subparagraph (D) of paragraph (1) of subdivision (a) of Section 5112, unless the decision or notice of action issued by the board specifies a different timeframe within which this petition may be filed. However, in no event shall the timeframe specified by the board be more than three years from the effective date of the board's decision or from the date that the board's action pursuant to the notice of action becomes final.

### **5115. Petitions for Reinstatement or Reduction of Penalty**

(a) A person whose license has been revoked or surrendered may petition the board for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition, unless a longer period, not to exceed three years, is specified by the board in any decision revoking the license, accepting the surrender of the license, or denying reinstatement of the license.

(b) A person whose license has not been revoked or surrendered but who has been disciplined by imposition of a suspension or otherwise disciplined may petition the board for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision.

(c) The board shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the board itself. The board itself shall rule on the petition, and the decision shall include the reasons therefor and any terms and conditions that the board reasonably deems appropriate to impose as a condition of reinstatement or reduction of penalty, including, but not limited to, restrictions on the petitioner's scope of professional practice.

## **Article 6.5 - Administrative Penalties**

### **5116. Administrative Penalties General Provisions**

(a) The board, after appropriate notice and an opportunity for hearing, may order any licensee or applicant for licensure or examination to pay an administrative penalty as provided in this article as part of any disciplinary proceeding or other proceeding provided for in this chapter.

(b) The board may assess administrative penalties under one or more provisions of this article. However, the total administrative penalty to be paid by the licensee shall not exceed the amount of the highest administrative penalty authorized by this article.

(c) The board shall adopt regulations to establish criteria for assessing administrative penalties based upon factors, including, but not limited to, actual and potential consumer harm, nature and severity of the violation, the role of the person in the violation, the person's ability to pay the administrative penalty, and the level of administrative penalty necessary to deter future violations of this chapter.

(d) Administrative penalties assessed under this article shall be in addition to any other penalties or sanctions imposed on the licensee or other person, including, but not limited to, license revocation, license suspension, denial of the application for licensure, denial of the petition for reinstatement, or denial of admission to the licensing examination. Payment of these administrative penalties may be included as a condition of probation when probation is ordered.

(e) All administrative penalties collected under this article shall be deposited in the Accountancy Fund.

### **5116.1. Administrative Penalties - All Accountancy Act Violations**

In accordance with Section 5116 and applicable regulations, except as provided in Section 5116.2, any licensee who violates any provision of this chapter may be assessed an administrative penalty of not more than five thousand dollars (\$5,000) for the first violation and not more than ten thousand dollars (\$10,000) for each subsequent violation.

### **5116.2. Administrative Penalties - Specific Accountancy Act Violations**

In accordance with Section 5116 and applicable regulations, any licensee who violates subdivision (a), (c), (i), (j) or (k) of Section 5100 may be assessed an administrative penalty of not more than one million dollars (\$1,000,000) for the first violation and not more than five million dollars (\$5,000,000) for any subsequent violation, except that a licensee who is a natural person may be assessed an administrative penalty of not more than fifty thousand dollars (\$50,000) for the first violation and not more than one hundred thousand dollars (\$100,000) for any subsequent violation.

### **5116.3. Administrative Penalties - Subversion of the Examination**

In accordance with Section 5116 and applicable regulations, any person who is found to have cheated or subverted or attempted to subvert or cheat on any licensing examination or who conspired with or aided or abetted any other person to cheat, subvert or attempt to subvert any examination may be assessed an administrative penalty of not more than five

thousand dollars (\$5,000) for the first violation and not more than ten thousand dollars (\$10,000) for each subsequent violation.

#### **5116.4. Procedure for Administrative Penalties**

(a) The board's executive officer may request assessment of an administrative penalty in any disciplinary or other proceeding provided in this chapter or in any notice to an applicant pursuant to Section 5112.

(b) The administrative penalty pursuant to subdivision (a) shall become final unless contested within the time period provided for the filing of a notice of appeal, for the filing of a notice of defense, or for requesting a hearing in the proceeding.

(c) Nothing in this article shall prevent an administrative penalty from being included in a final contested or default decision of the board or in a notice issued pursuant to Section 5112 once the time period for requesting a hearing has expired.

#### **5116.5. Judgment Ordering Payment of Administrative Penalty**

The board may obtain a judgment in any court of competent jurisdiction ordering the payment of any final administrative penalty assessed by the board pursuant to this article upon the filing of a certified copy of the board's final decision or notice issued pursuant to Section 5112.

#### **5116.6. Definition of "Licensee"**

Anywhere the term "licensee" is used in the article it shall include certified public accountants, public accountants, partnerships, corporations, holders of practice privileges, other persons licensed, registered, or otherwise authorized to practice public accountancy under this chapter, and persons who are in violation of any provision of Article 5.1 (commencing with Section 5096).

### **Article 7 - Prohibitions and Offenses Against the Chapter Generally**

#### **5120. Violations as Misdemeanor**

Any person who violates Article 3 (commencing with Section 5050) is guilty of a misdemeanor, punishable by imprisonment for not more than six months, or by a fine of not more than one thousand dollars (\$1,000), or both.

Whenever the board has reason to believe that any person is liable to punishment under this article, the board or with its approval the enforcement advisory committee, may certify the facts to the appropriate enforcement officer of the city or county where the alleged violation had taken place and the officer may cause appropriate proceedings to be brought.

### **5121. Evidence of Violation**

The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof or the words "public accountant" or any abbreviation thereof shall be prima facie evidence in any prosecution, proceeding or hearing brought under this article that the person whose name is so displayed caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device. Any such display or uttering shall be prima facie evidence that the person whose name is so displayed holds himself or herself out as a certified public accountant, or a public accountant holding a permit to practice public accountancy in this State under the provisions of this chapter. In any prosecution or hearing under this chapter, evidence of the commission of a single act prohibited by this chapter shall be sufficient to justify a conviction without evidence of a general course of conduct.

### **5122. Injunctions**

Whenever in the judgment of the board, or with its approval the enforcement advisory committee, any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, an offense against this chapter, the board may make application to the appropriate court for an order enjoining the acts or practices, and upon showing by the board that the person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or other order that may be appropriate shall be granted by the court.

## **Article 8 - Revenue**

### **5130. Application Fee**

The board shall charge and collect a fee from each applicant for the certificate of certified public accountant. The fee shall accompany the application which must be made on a blank provided by the board.

### **5131. Fee for Examination**

(a) The board may charge and collect an application fee and an examination fee from each applicant. The applicable fees shall accompany the application which shall be made on a form provided by the board.

(b) Notwithstanding any other provision of this chapter, the board may authorize an organization specified by the board pursuant to Section 5082.1 to receive directly from

applicants payment of the examination fees charged by that organization as payment for examination materials and services.

### **5132. Disposition of Monies**

All moneys received by the board under this chapter from any source and for any purpose shall be accounted for and reported monthly by the board to the Controller and at the same time the moneys shall be remitted to the State Treasury to the credit of the Accountancy Fund.

The secretary-treasurer of the board shall, from time to time, but not less than once each fiscal year, prepare or have prepared on his or her behalf, a financial report of the Accountancy Fund that contains information that the board determines is necessary for the purposes for which the board was established.

The report of the Accountancy Fund, which shall be published pursuant to Section 5008, shall include the revenues and the related costs from examination, initial licensing, license renewal, citation and fine authority, and cost recovery from enforcement actions and case settlements.

### **5133. Accountancy Fund Appropriation and Compensation of Board Members**

All money in the Accountancy Fund is hereby appropriated to the California Board of Accountancy to carry out the provisions of this chapter. Each member of the board and each member of a committee shall receive a per diem and expenses as provided in Section 103.

### **5134. Fees**

The amount of fees prescribed by this chapter is as follows:

(a) The fee to be charged to each applicant for the certified public accountant examination shall be fixed by the board at an amount not to exceed six hundred dollars (\$600). The board may charge a reexamination fee not to exceed seventy-five dollars (\$75) for each part that is subject to reexamination.

(b) The fee to be charged to out-of-state candidates for the certified public accountant examination shall be fixed by the board at an amount not to exceed six hundred dollars (\$600) per candidate.

(c) The application fee to be charged to each applicant for issuance of a certified public accountant certificate shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(d) The application fee to be charged to each applicant for issuance of a certified public accountant certificate by waiver of examination shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(e) The fee to be charged to each applicant for registration as a partnership or professional corporation shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(f) The biennial fee for the renewal of each of the permits to engage in the practice of public accountancy specified in Section 5070 shall not exceed two hundred fifty dollars (\$250).

(g) The application fee to be charged to each applicant for a retired status license, as described in Section 5070.1, shall be fixed by the board at an amount not to exceed two hundred fifty dollars (\$250).

(h) The application fee to be charged to each applicant for restoration of a license in a retired status to an active status pursuant to subdivision (f) of Section 5070.1 shall be fixed by the board at an amount not to exceed one thousand dollars (\$1,000).

(i) The delinquency fee shall be 50 percent of the accrued renewal fee.

(j) The initial permit fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the permit is issued, except that, if the permit is issued one year or less before it will expire, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued. The board may, by regulation, provide for the waiver or refund of the initial permit fee where the permit is issued less than 45 days before the date on which it will expire.

(k) (1) The annual fee to be charged an individual for a practice privilege pursuant to Section 5096 with an authorization to sign attest reports shall be fixed by the board at an amount not to exceed one hundred twenty-five dollars (\$125).

(2) The annual fee to be charged an individual for a practice privilege pursuant to Section 5096 without an authorization to sign attest reports shall be fixed by the board at an amount not to exceed 80 percent of the fee authorized under paragraph (1).

(l) The fee to be charged for the certification of documents evidencing passage of the certified public accountant examination, the certification of documents evidencing the grades received on the certified public accountant examination, or the certification of documents evidencing licensure shall be twenty-five dollars (\$25).

(m) The board shall fix the fees in accordance with the limits of this section and any increase in a fee fixed by the board shall be pursuant to regulation duly adopted by the board in accordance with the limits of this section.

(n) It is the intent of the Legislature that, to ease entry into the public accounting profession in California, any administrative cost to the board related to the certified public accountant examination or issuance of the certified public accountant certificate that exceeds the maximum fees authorized by this section shall be covered by the fees charged for the biennial renewal of the permit to practice.

## **Article 9 - Accountancy Corporations**

### **5150. "Accountancy Corporation" Defined**

An accountancy corporation is a corporation which is registered with the California Board of Accountancy and has a currently effective certificate of registration from the board pursuant to the Moscone-Knox Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes, rules and regulations, an accountancy corporation is entitled to practice accountancy. With respect to an accountancy corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the California Board of Accountancy.

### **5151. Application for Registration as Corporation**

An applicant for registration as an accountancy corporation shall supply to the board all necessary and pertinent documents and information requested by the board concerning the applicant's plan of operation. The board may provide forms of application. If the board finds that the corporation is duly organized and existing under the General Corporation Law or the foreign corporation is duly qualified for the transaction of intrastate business pursuant to the General Corporation Law, that, except as otherwise permitted under Section 5053 or 5079, each officer, director, shareholder, or employee who will render professional services is a licensed person as defined in the Moscone-Knox Professional Corporation Act, or a person licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices, and that from the application it appears that the affairs of the corporation will be conducted in compliance with law and the rules and regulations of the board, the board shall upon payment of the registration fee in the amount as it may determine, issue a certificate of registration. The applicant shall include with the application for each shareholder of the corporation licensed in a foreign country but not in this state or in any other state, territory, or possession of the United States, a certificate from the authority in the foreign country currently having final jurisdiction over the practice of accounting, which shall verify the shareholder's admission to practice in the foreign country, the date thereof, and the fact that the shareholder is currently in good standing as the equivalent of a certified public accountant or public accountant. If the certificate is not in English, there shall be included with the certificate a

duly authenticated English translation thereof. The application shall be signed and verified by an officer of the corporation.

## **5152. Corporation Reports**

Each accountancy corporation shall file with the board at the times the board may require a report containing information pertaining to qualification and compliance with the statutes, rules and regulations of the board as the board may determine. All reports shall be signed and verified by an officer of the corporation.

### **5152.1. Accountancy Corporation Renewal of Permit to Practice**

Each accountancy corporation shall renew its permit to practice biennially and shall pay the renewal fee fixed by the board in accordance with Section 5134.

## **5154. Directors, Shareholders and Officers Must Be Licensed**

Except as provided in Section 5079 of this code and in Section 13403 of the Corporations Code, each director, shareholder, and officer of an accountancy corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act, or a person licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices.

## **5155. Disqualified Shareholder Nonparticipation**

The income of an accountancy corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in the Moscone-Knox Professional Corporation Act) shall not in any manner accrue to the benefit of such shareholder or his shares in the accountancy corporation.

## **5156. Unprofessional Conduct**

An accountancy corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes, rules and regulations to the same extent as a person holding a permit under Section 5070 of this code. The board shall have the same powers of suspension, revocation and discipline against an accountancy corporation as are now or hereafter authorized by Section 5100 of this code, or by any other similar statute against individual licensees, provided, however, that proceedings against an accountancy corporation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.



### **5157. Accountancy Corporations Regulations**

The board may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring (a) that the articles of incorporation or bylaws of an accountancy corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in the Moscone-Knox Professional Corporation Act), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such rules and regulations may provide, and (b) that an accountancy corporation as a condition of obtaining a certificate pursuant to the Moscone-Knox Professional Corporation Act and this article shall provide adequate security by insurance or otherwise for claims against it by its clients arising out of the rendering of professional services.

### **5158. Management of Accountancy Corporation Office Must Be Licensed**

Each office of an accountancy corporation engaged in the practice of public accountancy in this state shall be managed by a certified public accountant or public accountant.

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## **Article 1- General**

### **§ 1. Definition of "Accountancy Act."**

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

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

### **§ 2. Confusing Titles.**

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

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

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

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

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

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

### **§ 2.5. Definition of "Audits."**

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

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

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

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

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

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

### **(a) Address Notification -Individual Licensees**

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

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

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

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

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

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

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

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

## **§ 4. Safe Harbor Language.**

A person who is not licensed by the California Board of Accountancy, and who prepares a financial report in a form substantially the same as that set forth in subsection (a) or



(b) below, shall not be deemed to be engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code.

(a) "I [we] have prepared the accompanying financial statements of [name of entity] as of [time period] for the [period] then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management [owners]. I [we] have not audited, reviewed, or compiled the accompanying financial statements. I [we] do not express an opinion or any other form of assurance on them. I [We] am [are] not required to be licensed by the California Board of Accountancy for the preparation of these financial statements."

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

The preparation of financial statements on the income tax basis of accounting is limited to presenting information that is the representation of management [the owners]. We [I] have not audited, reviewed, or compiled the accompanying statements. We [I] do not express an opinion or any other form of assurance on them. Management has [The owners have] elected to omit substantially all of the disclosures ordinarily included in financial statements prepared on the income tax basis of accounting. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the company's assets, liabilities, equity, revenues, expenses [and cash flow]. Accordingly, these financial statements are not designed for those who are not informed about such matters. We [I] are [am] not required to be licensed by the California Board of Accountancy for the preparation of these financial statements."

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

## **§ 5. Observance of Rules.**

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

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

## **§ 5.5. Substantial Equivalency.**

(a) The Board has determined that the following states require education, examination, and experience qualifications for licensure, when issuing a certified public accountant license to practice public accountancy, substantially equivalent to this state's qualifications: Alabama, Alaska, Arizona, Arkansas, Commonwealth of the Northern Mariana Islands, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

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

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

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

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

Reference: Sections 5032, 5093 and 5096, Business and Professions Code.

## **Article 2- Examinations**

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

(a) Every candidate for the CPA license is required to pass or to have passed the Uniform Certified Public Accountant Examination prepared by the American Institute of Certified Public Accountants or to otherwise have met the examination requirements of Business and Professions Code Sections 5082, 5092, or 5093 and the requirements of this article.

(b) The passing score for any section of the Uniform Certified Public Accountant Examination is 75.

(c) A disabled candidate, upon request and presentation of satisfactory evidence of need, in accordance with the Americans with Disabilities Act will be afforded such accommodation in the examination procedures or the examination conditions as may be reasonable.

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

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

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

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

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

(a) Upon the commencement of computer-based testing in California, an applicant may sit for the four sections of the computer-based Uniform Certified Public Accountant Examination individually and in any order. An applicant who fails to pass any section of the examination may retake that section. When the applicant has credit for all four sections of the examination within an 18-month period as defined in subsection (b), the applicant shall be considered to have passed the examination.

(b) Except as provided in subsections (c) and (d), an applicant shall retain credit for any section the applicant has passed for an 18-month period beginning with the date that the section of the exam was passed. At the end of the 18-month period, credit for that section expires, and that section must be re-taken and passed to re-establish credit.

(c) A first-time applicant who passes any section of the computer-based Uniform Certified Public Accountant Examination during the six months immediately following commencement of computer-based testing in California shall retain credit for that section for a 24-month period beginning with the date the section of the exam was passed. At the end of the 24-month period, credit for that section expires. The section may be re-taken pursuant to subsection (b) of this section.

(d) A candidate may sit for any unpassed section of the examination only one time during each testing window. A testing window is a three-month period as determined by the American Institute of Certified Public Accountants during which applicants may take the exam. There are four three-month testing windows in a year. To allow for routine maintenance, the exam may be unavailable for up to one month during each testing window.

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

(1) Death of an immediate family member. Documentation, such as a copy of the death certificate, must be submitted.

(2) Catastrophic illness, contagious disease, or major traumatic injury to the candidate or immediate family member (spouse, child or parent). Submit an original letter on letterhead from the physician, which includes the date(s), nature of the illness, and the physician's signature.

- (3) Natural disaster (earthquake, flood, fire, etc.).
- (4) Non-issuance of visa for travel to the U.S. Documentation, such as an official letter from the U.S. Embassy or a copy of the passport indicating a visa was requested, must be submitted.
- (5) Other good cause.

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

## **§ 8. Examination Final Filing Dates.**

(a) During the time the Uniform CPA Examination is a paper and pencil examination, applications for the Uniform CPA Examination must be received by the Board at its office or postmarked on or before the below final filing dates in order to be accepted for that exam. Applications postmarked after the final filing dates listed in this section shall be rejected and returned to the applicant. Meter marks are not acceptable proof of mailing.

(b) First-time Applicant Final Filing Date.

(1) The final filing date for applicants who have never sat for the Uniform CPA Exam in California shall be February 1 for the May examination, or August 1 for the November examination. If the examination final filing date falls on a Sunday or a National holiday on which the United States Postal Service is not open, the final filing date will be the next business day.

(2) The application must be complete, including official transcripts and/or foreign evaluations pursuant to Section 9 or Section 9.2, and the appropriate fees, or it shall be rejected by the Board and the applicant will not be scheduled to sit for the examination.

(c) Repeat Applicant Final Filing Date.

(1) The final filing date for applicants who have previously taken the Uniform CPA Exam in California shall be March 1 for the May examination, or September 1 for the November examination. If the examination final filing date falls on a Sunday or a National holiday on which the United States Postal Service is not open, the final filing date will be the next business day.

(2) The application must be complete including the appropriate fees or it shall be rejected by the Board and the applicant will not be scheduled to sit for the examination.

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

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

(a) An Authorization to Test (ATT) is issued by the Board to permit the applicant to test for specified sections of the computer-based Uniform Certified Public Accountant Examination. An ATT for a specified section or sections of the exam shall go into effect (be open) on the date of issuance. Within 90 calendar days of the date the ATT is issued, the applicant must remit

the required fees to the National Association of State Boards of Accountancy to obtain a Notice to Schedule (NTS) pursuant to Section 6.1. If the applicant fails to remit fees and obtain the NTS, the ATT shall be deemed expired and the applicant must reapply and be issued another ATT to be able to test for that section.

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

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

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

(e) The nine-month time periods specified in subsection (b) may be extended by the Board because the applicant was prevented from testing due to one of the following events:

(1) Death of an immediate family member, when accompanied by documentation, such as a copy of the death certificate.

(2) Catastrophic illness, contagious disease, or major traumatic injury to the candidate or immediate family member (spouse, child or parent), when accompanied by an original letter on letterhead from the physician, which includes the date(s), nature of the illness, and the physician's signature.

(3) Natural disaster (earthquake, flood, fire, etc.).

(4) Non-issuance of visa for travel to the U.S., when accompanied by documentation, such as an official letter from the U.S. Embassy or a copy of the passport indicating a visa was requested.

(5) Other good cause.

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

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

(a) An application for an Authorization to Test (ATT) for the computer-based Uniform CPA Examination pursuant to Section 8.1 must be complete including the candidate's name, application date, date of birth, address, telephone number, summary of education, the appropriate fees pursuant to Section 70, and a signature (or the electronic equivalent) authorizing the release of application information to the National Association of State Boards of Accountancy and the designated exam administrator. The application must also specify the

section(s) of the exam the applicant is applying to take. First-time applicants must also provide official transcripts and/or foreign evaluations pursuant to Section 9.2.

(b) An applicant shall not have more than one open ATT for any section of the examination at the same time. At the time of application and during the time any ATT issued by the California Board of Accountancy is open, the applicant shall not have an open ATT for the same section in any other state or jurisdiction.

(c) The applicant shall not apply to take, or take, any section or sections of the examination for which the applicant holds unexpired credit pursuant to Section 7.1, with the following exception:

An applicant for reissuance who does not currently hold a Certified Public Accountant license in another jurisdiction may retake the examination pursuant to Section 37 of these regulations.

(d) The applicant shall certify at the time of application that he or she is in compliance with subsections (b) and (c). Falsifying this certification; or including any false, fraudulent, or materially misleading statements on the application for the examination; or including any material omission on the application for the examination shall be cause for action by the Board pursuant to Business and Professions Code 5110.

(e) Except for a CPA who is required to take specified sections of the examination pursuant to a disciplinary action of the Board, no CPA shall apply to take, or take, any section of the Uniform Certified Public Accountant Examination. A CPA who fails to comply with this requirement shall be subject to disciplinary action by the Board.

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

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

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

(1) Be a member of and certify to its membership in either the American Association of Collegiate Registrars and Admission Officers, the National Association of Foreign Student Affairs, or the National Association of Credential Evaluation Services;

(2) Furnish the Board with a copy of its current written procedure for identifying fraudulent transcripts, and certify on the application to compliance with that procedure;

(3) Certify on the application that it maintains a complete set of reference materials, that the references are adequate to prepare complete, accurate evaluations and are the most current editions available;

(4) Furnish the Board with resumes or curriculum vitae for each evaluator and translator, which shall provide biographical information, including a list of languages spoken and years in service. The service shall have at least one senior staff member with not less than five years of foreign student college admission experience or closely related credential evaluation experience at all academic levels;

(5) Furnish the Board with its organization chart showing the ratio of senior staff members to

junior staff members is, at most, one to five, and shall not exceed that ratio;

(6) Furnish the Board with written evidence that a minimum of 50% of the evaluations performed by junior staff members are reviewed by senior staff members, and shall maintain at least that minimum; for the purposes of this paragraph, "written evidence" means it provides as a part of the application, for the previous five years, the total number of evaluations performed, the total number of evaluations performed by junior staff members, and the total number of evaluations performed by junior staff members that were reviewed by senior staff members.

(7) Furnish the Board with a list of at least three accredited colleges and universities or other licensing agencies using its services;

(8) Furnish the Board with three letters of reference, written within the last year, from public or private agencies;

(9) Furnish the Board with a copy of its appeal procedure for applicants, and certify to compliance with that procedure on the application;

(10) For the initial application, furnish the Board with a sample evaluation that complies with the requirements of subdivision (b);

(11) For the initial application, certifies it has, or agrees to establish within thirty days of Board approval, a minimum six-year document retention policy;

(12) As a condition of renewal, a credentials evaluation service shall certify continued compliance with a minimum six-year document retention policy.

(b) Each evaluation provided by the Board approved service shall:

(1) Affirm in a written statement that the evaluation is based only upon authenticated, original transcripts and degrees received directly from the educational institution or its governing body;

(2) Include certified copies of all original transcripts;

(3) Be furnished directly to the Board, in English; on tamper-proof paper,

(4) Identify the primary evaluator and any secondary evaluator;

(5) Include the name or names of the applicant as shown on the transcripts as well as the name under which the applicant requested the evaluation;

(6) Include a report of each degree held by the applicant along with the equivalent degree offered in the United States, the date the degree was granted and the institution granting the degree;

(7) Provide the total number of semester units completed and evaluated;

(8) Include a listing of the course titles with the semester unit equivalent for each course listed in chronological order without categorization, extra emphasis, or distinguishing formatting for any of the courses listed;

(9) Include the following disclaimer: "This evaluation service is not authorized by the California Board of Accountancy to include in this evaluation any opinion as to whether certain courses will be accepted by the Board as meeting the Board's requirements or whether the applicant meets the Board's requirements for taking the Uniform CPA Examination or for licensure."

(c) The credentials evaluation service shall report to the Board annually whether it has undergone any organizational changes, including any change in the ratio required in subdivision (a)(5), or any change in ownership. Approval issued under this section shall

expire five years after the date of issuance unless renewed by the Board prior to its expiration by meeting the requirements in subsection (a). For purposes of this subdivision, "change in ownership" means any change in legal ownership of the approved credentials evaluation service or its business entity form, including the acquisition by a person of more than 50% of an interest in or stock of the business entity's parent company, change of the business entity by incorporation or conversion of the business to another business entity form or a change in the corporate status that requires a new corporate number as issued by the Secretary of State.

(d) In order to remain as a Board approved credentials evaluations service, the credentials evaluation service shall respond to any inquiries by the Board, submit any documents requested by the Board, provide any information requested by the Board and cooperate in any investigation conducted by the Board regarding the service's compliance with the Board's requirements.

(e) Approval may be withdrawn at any time if the credentials evaluation service fails to comply with any of the requirements of this section or furnishes false, inaccurate, incomplete or misleading information to the Board.

(f) A credentials evaluation service that received Board approval prior to the date this subdivision becomes effective shall meet the requirements of this section at its next renewal.

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

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

(a) Each applicant shall present satisfactory evidence that he or she has received a baccalaureate or higher degree, has completed the accounting subjects specified in subsection (b) of this section, and has completed the business-related subjects specified in subsection (c) of this section.

(b) The applicant shall have completed a minimum of 24 semester units, or the equivalent in quarter units, selected from the following accounting subjects: accounting, auditing, financial reporting, external or internal reporting, financial statement analysis or taxation.

(c) In addition to the accounting courses described in subsection (b), an applicant shall have completed a minimum of 24 semester units, or the equivalent in quarter units, selected from the following business-related subjects: accounting subjects in excess of the 24 semester units as described in subsection (b), business administration, economics, finance, business management, marketing, computer science/information systems, statistics, business communications, mathematics, business law, or business related law courses offered by an accredited law school.

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

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

(2) An applicant who applied, qualified, and sat for at least two subjects of the examination for the Certified Public Accountant License before May 15, 2002, may



provide evidence of qualifying education at the time of application for licensure.

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

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

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

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

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

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

Reference: Sections 5018, 5082, 5092 and 5093, Business and Professions Code.

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

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

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

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

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

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

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

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

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

### **§ 11.1. Accounting Study.**

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

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

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

(A) a minimum of six semester units, or the equivalent in quarter units, shall be

completed in accounting subjects as described in Section 9.2(b),  
(B) a maximum of 14 semester units, or the equivalent in quarter units, may be completed in business-related subjects as described in Section 9.2(c),  
(C) a maximum of nine semester units, or the equivalent in quarter units, may be completed in other academic work relevant to accounting and business; and  
(D) a maximum of four semester units, or the equivalent in quarter units, may come from internships or independent studies courses which meet the subject matter requirements of Section 11.1(a)(2)(A) or (B).

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

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

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

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

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

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

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

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

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

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

(3)(A) All verifications shall be submitted to the Board on Form 11A-29 (11/17) for public accounting experience or Form 11A-29A (11/17) for private industry and governmental accounting experience, which are hereby incorporated by reference, and shall be signed under penalty of perjury.

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

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

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

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

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

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

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

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

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

### **§ 12.1 - Experience in Academia**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Some or all of the experience required by Section 5095 and this section may be completed prior to issuance of the California Certified Public Accountant license. Any experience that

would be qualifying for purposes of Section 5095 and this section may also serve as qualifying experience for purposes of Sections 5092 or 5093. To be qualifying for purposes of Section 5095 and this section, any experience obtained after issuance of the California Certified Public Accountant license must be obtained while the license is held in active status.

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

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

(b) In order to meet the attest experience requirements of Section 5095 an applicant for or holder of a California Certified Public Accountant license shall show to the satisfaction of the Board that the applicant has completed a minimum of 500 hours of attest experience. This experience shall include all of the following:

(1) Experience in the planning of the audit including the selection of the procedures to be performed.

(2) Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions included in financial statements.

(3) Experience in the preparation of working papers in connection with the various elements of (1) and (2) above.

(4) Experience in the preparation of written explanations and comments on the work performed and its findings.

(5) Experience in the preparation of and reporting on full disclosure financial statements.

(c) Qualifying experience may be gained through employment in public accounting, private industry, or government. Experience acquired in academia is not qualifying.

(d) In order to be qualifying, experience obtained pursuant to Section 5095 of the Business and Professions Code must be supervised by a person holding a valid active license or comparable authority to provide attest services as specified in subdivision (b) of Business and Professions Code Section 5095. Supervised experience means that the applicant's supervisor shall have reviewed and evaluated the applicant's qualifying work, pursuant to subsection (b) on a routine and recurring basis and shall have authority and oversight over the applicant.

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

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

(3)(A) All verifications shall be submitted to the Board on Form 11A-6A (11/17) for public

accounting experience or on Form 11A-6 (11/17) for private industry or governmental accounting experience, which are hereby incorporated by reference, and shall be signed under penalty of perjury.

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

(e) In order to demonstrate the completion of qualifying experience, an applicant for or holder of a California Certified Public Accountant license may be required to appear before the Qualifications Committee to present work papers, or other evidence, substantiating that his or her experience meets the requirements of Section 5095 of the Business and Professions Code and of subsection (b) of this section.

(f) The applicant who is applying with attest experience obtained outside the United States and its territories must present work papers substantiating that such experience meets the requirements of subsection (b) and generally accepted auditing standards. Alternatively, the applicant may acquire a minimum of 500 hours of United States experience which meets the requirements of Business and Professions Code Section 5095 and subsection (b).

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

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

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

(3) The 80 hours must include, at a minimum, the following:

(A) 16 hours in financial accounting standards.

(B) 16 hours in auditing standards.

(C) 8 hours in compilation and review.

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

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

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

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

(h) The experience required by Section 5092, 5093, or 5095 of the Business and Professions Code may be obtained in full-time or part-time employment provided the total experience completed by the applicant is the equivalent of at least two years of full-time employment for an applicant qualifying under Section 5092 or at least one year of full-time employment for an applicant qualifying under Section 5093. In evaluating an applicant's experience, 170 hours of part-time employment shall be considered equivalent to one month of full-time employment.

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

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

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

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

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

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

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

## **Article 2.5- License Status**

### **§ 15. Retired Status**

(a) Beginning July 1, 2014, upon application to the Board and compliance with this Article and Section 5070.1 of the Business and Professions Code, a licensee may have his or her license placed in a retired status. This Article shall not prohibit a holder of a license in a retired status from receiving a share of the net profits from a public accounting firm or other compensation from a public accounting firm, provided that the licensee does not otherwise engage in the practice of public accountancy.

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

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

Reference: Sections 5058.3, 5070.1, 5100, and 5109, Business and Professions Code.

### **Section 15.1 – Application for Retired Status**

(a) To be eligible for a license in a retired status, a licensee of the Board shall submit a completed application to the Board on Form 11R-48 (11/17) which is hereby incorporated by reference.

(b) A licensee applying to have his or her license placed in a retired status shall have held a license as a certified public accountant or public accountant in the United States or its territories for a minimum of twenty total years; and during those twenty years, from the

Board for a minimum of five years in an active status. Failure to meet the requirements of this Article and Section 5070.1 of the Business and Professions Code is grounds for denial of the application.

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

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

Reference: Section 5070.1, Business and Professions Code.

### **Section 15.2 – Renewal of a License in a Retired Status**

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

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

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

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

Reference: Section 5070.1 and 5070.5, Business and Professions Code.

### **Section 15.3 – Restoration of a License from a Retired Status to Active Status**

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

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

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

Reference: Section 5070.1, Business and Professions Code.

### **Section 15.4 – Limitation on Retired Status**

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

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

Reference: Section 5070.1, Business and Professions Code.



## **§ 16. Military Inactive Status**

Beginning January 1, 2014, a licensee engaged in active duty as a member of the California National Guard or the United States Armed Forces may apply to have his or her license placed in, and renewed in, a military inactive status by completing the Application for Military Inactive Status (Form 11R-49 (11/17)), which is hereby incorporated by reference. Along with the Application for Military Inactive Status (Form 11 R-49 (11/17)), a licensee shall submit sufficient evidence that he or she is engaged in active duty as a member of the California National Guard or the United States Armed Forces.

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

### **§ 16.1. Definitions.**

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

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

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

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

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

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

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

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

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

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

shall be waived.

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

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

### **Article 3- Practice Privileges (operative July 1, 2013 – December 31, 2018)**

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

(a) This article implements Article 5.1 of Chapter 1 of Division 3 of the Business and Professions Code related to practice privileges. This article shall become operative on July 1, 2013, and shall become inoperative on January 1, 2019.

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

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

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

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

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

(a) An individual who is required to provide notification to the Board pursuant to Section 5096(i)(1) of the Business and Professions Code shall do so on the Practice Privilege Pre-Notification of Listed Events Form (PP-10 (11/17)), which is hereby incorporated by reference.

(b) An individual who is required to provide notification to the Board pursuant to Section 5096(f) of the Business and Professions Code shall do so on the Notification of Cessation of Practice Privilege Form (PP-11 (11/17)), which is hereby incorporated by reference.

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

(d) An individual who is required to provide notification to the Board pursuant to Section 5096(e)(10) of the Business and Professions Code shall do so on the Practice Privilege Notification of Pending Criminal Charges (PP-15 (11/17)) form, which is hereby incorporated by reference.

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

Reference: Sections 5096 and 5096.2, Business and Professions Code.

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

(a) An out-of-state accounting firm organized and authorized to practice public accountancy under the laws of another state, as specified in Business and Professions Code Sections 5070 and 5035.3, that performs services pursuant to Business and Professions Code Section 5096.12(c), which requires the accounting firm to register with the Board, shall do so on the Out-of-State Accounting Firm Registration Form (PP- 13 (11/17)), which is hereby incorporated by reference.

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

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

(A) Current contact information;

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

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

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

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

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

(v) Public letter of reprimand issued;

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

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

(C) An update of the ownership information that was originally reported on the Out-of-State Accounting Firm Registration Form (PP-13 (11/17)).

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

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

(2) Each registered out-of-state accounting firm shall notify the Board of any change in its ownership, as reported on the Out-of-State Accounting Firm Registration Form (PP-13 (11/17)), within 30 days after the change.

(3) For purposes of this section "registered firm" includes any firm registered by the Board pursuant to this section even if the registration is suspended or otherwise subject to

disciplinary action, provided the registration is not expired, canceled or revoked.

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

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

Reference: Section 5096.12, Business and Professions Code.

## **§ 21. Appeals.**

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

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

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

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

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

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

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

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

(a) Prior to the issuance of an Administrative Suspension Order pursuant to Business and Professions Code Section 5096.4, the Executive Officer may issue a Notice of Intent to

Administratively Suspend. The Notice of Intent to Administratively Suspend shall be in writing and shall be mailed to a state board of accountancy with which the practice privilege holder is licensed.

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

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

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

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

Reference: Sections 5096 and 5096.4, Business and Professions Code.

#### **Article 4- Practice Privileges (inoperative on July 1, 2013)**

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

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

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

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

Reference: Sections 5096-5096.15, Business and Professions Code.

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

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

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

(b) Possess education, examination, and experience qualifications that have been determined by the Board to be substantially equivalent to the qualifications under Business and Professions Code Section 5093. Pursuant to subdivision (b) of Business and Professions Code Section 5096, the Board accepts individual qualification evaluations of substantial equivalency by the National Association of State Boards of Accountancy's (NASBA's) CredentialNet. Prior to seeking a practice privilege under this paragraph, an individual shall

apply to NASBA's CredentialNet, pay the required fee, and obtain the required substantial equivalency determination. The individual shall report the NASBA file number on the Notification Form submitted pursuant to Section 28 and shall authorize the Board to review the NASBA file upon request; or

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

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

Reference: Section 5096, Business and Professions Code.

### **§ 28. Notification.**

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

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

(c) The electronic version of the Notification Form shall provide for a certification and electronic signature as follows: I understand that any misrepresentation or omission in connection with this notification disqualifies me from the California practice privilege and is cause for termination. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. By typing my name in the box below and clicking the "I Agree" button I certify under penalty of perjury under the laws of the State of California that the forgoing information is true and correct. If I am not prepared to so certify, I understand that I should click the "Cancel" button to discontinue the notification process.

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

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

Cancel

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

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

NOTIFICATION AND AGREEMENT TO CONDITIONS FOR THE PRIVILEGE TO PRACTICE  
PUBLIC ACCOUNTING IN CALIFORNIA PURSUANT TO CALIFORNIA BUSINESS AND  
PROFESSIONS CODE SECTION 5096 AND TITLE 16, DIVISION 1, ARTICLE 4 OF THE  
CALIFORNIA CODE OF REGULATIONS

**CONTACT INFORMATION**

Individual Information

Name: \_\_\_\_\_ Prior Name(s): \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

Daytime Direct Telephone Number: \_\_\_\_\_ E-mail Address: \_\_\_\_\_ (optional)

**Certified Public Accounting Firm Information**

*Complete the Certified Public Accounting Firm Information ONLY if the certified public accounting firm name you are associated with is different from the individual name above.*

Certified Public Accounting Firm Name: \_\_\_\_\_

Firm Address: \_\_\_\_\_

Firm Main Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Firm Taxpayer ID Number: \_\_\_\_\_

*Include additional certified public accounting firms you are associated with on Attachment 2, if necessary*

**Other Contact Information**

Address of Record (mailing address: fill out only if different from firm address or if no firm address is listed above): \_\_\_\_\_

**QUALIFICATION REQUIREMENTS**

I state as follows:

.....  ..... **I am an individual.**

2.  My principal place of business is not in California; OR  
I have a pending application for licensure in California under Sections 5087 and 5088.

I  qualify for a practice privilege based on my current, valid license to practice public accountancy in the following state:

State: \_\_\_\_\_ License Number: \_\_\_\_\_ Date Originally Issued: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

4.  The license identified in Item 3 is deemed substantially equivalent by the California Board of Accountancy; OR

My individual qualifications have been determined by the National Association of State Boards of Accountancy (NASBA) to be substantially equivalent (NASBA file no. \_\_\_j); OR

5.  I have continually practiced public accountancy as a certified public accountant under a valid license issued by any state for four of the last 10 years.

I am submitting this notice to the CBA at or before the time I begin the practice of public accountancy in California; OR

I am submitting this notice after I began the practice of public accountancy in California on \_\_\_/\_\_\_/\_\_\_.. My reason(s) for not providing notice on or before that date is (are) provided below. (The safe harbor provision is referenced in Section 5096.14 of the California Business and Professions Code.)

6.
- 
- 

I have met the continuing education requirements and any exam requirements for the state of licensure identified in Item 3.

I consent and agree to the following:

7.  To comply with the laws of the state of California, including the California Accountancy Act (Business and Professions Code Section 5000 et seq., accessible at [http://www.dca.ca.gov/cba/acnt\\_act.htm](http://www.dca.ca.gov/cba/acnt_act.htm)) and the regulations thereunder (accessible at <http://www.dca.ca.gov/lcbalregs.htm>).

8.  To the personal and subject matter jurisdiction of the CBA including, but not limited to, the following:
- a. To suspend, without prior notice or hearing and in the sole discretion of the CBA or its representatives, the privilege to practice public accounting;
  - b. To impose discipline for any violation of the California Accountancy Act or regulations thereunder and recover costs for investigation and prosecution; and
  - c. To provide information relating to a practice privilege and/or refer any additional and further discipline to the board of accountancy of any other state and/or the Securities and Exchange Commission (SEC), the Public Company Accounting Oversight Board (PCAOB) or other relevant regulatory authorities.

9.  To respond fully and completely to all inquiries by the CBA relating to my California practice privilege, including after the expiration of this privilege.

10.  To the authority of the CBA to verify the accuracy and truthfulness of the information provided in this notification. I consent to the release of all information relevant to the CBA's inquiries now or in the future by:

- a. Contacting other state agencies;
- b. Contacting the SEC, PCAOB or any other federal agency before which I am authorized to practice; and
- c. Contacting NASBA.

11.

12.  In the event that any of the information in this notice changes, to provide the CBA written notice of any such change within 30 days of its occurrence.

To submit any applicable fees timely.



## AUTHORITY TO SIGN ATTEST REPORTS

Choose **ONE** of the following options:

**I WISH** to be able to sign an attest report under this practice privilege, and I have at least 500 hours of experience in attest services. By checking this box, I agree to pay within 30 days of submission of this Notification Form, the \$100 Notification on Fee which includes authorization to sign attest reports.

OR

**I DO NOT WISH** to be able to sign an attest report under this practice privilege. Under this choice, I may participate in attest engagements but may not sign an attest report. By checking this box, I agree to pay the \$50 Notification Fee, due within 30 days of submission of this Notification Form.

## DISQUALIFYING CONDITIONS

Please respond to the following items. For any items checked "Yes" in (A) – (G), you must provide additional information as requested in Attachment 1, and you are not authorized to practice in California unless and until you receive notice from the CBA that the privilege has been granted.

Please check "Yes" for any items even if they were previously reviewed and cleared by the Board in a past California Practice Privilege. To expedite the review process, please include the details of all disqualifying conditions, including those previously reported in the additional information you provide.

- |                          |                          |     |   |
|--------------------------|--------------------------|-----|---|
| Y                        | N                        | A.  | I have been convicted of a crime other than a minor traffic violation.  |
| <input type="checkbox"/> | <input type="checkbox"/> |     |   |
| Y                        | N                        | B.  | I have had a license, registration, permit or authority to practice a profession surrendered, denied, suspended, revoked, or otherwise disciplined or sanctioned except for the following occurrences:                            |
| <input type="checkbox"/> | <input type="checkbox"/> |     |   |
|                          |                          | (1) | an action by a state board of accountancy in which the only sanction was a requirement that the individual complete specified continuing education courses.   |
|                          |                          | (2) | the revocation of a license or other authority to practice public accountancy, other than the license upon which the practice privilege is based, solely because of failure to complete continuing education or failure to renew. |
| Y                        | N                        | C.  | I am currently the subject of an investigation, inquiry or proceeding by or before a state, federal, or local court or agency (including the PCAOB) involving my professional conduct.  |
| <input type="checkbox"/> | <input type="checkbox"/> |     |   |
| Y                        | N                        | D.  | I have an unresolved administrative suspension or an unpaid fine related to a prior California Practice Privilege.  |
| <input type="checkbox"/> | <input type="checkbox"/> |     |   |
| Y                        | N                        | E.  | I did not respond to a request for information from the CBA related to a prior California Practice Privilege.   |
| <input type="checkbox"/> | <input type="checkbox"/> |     |   |
| Y                        | N                        | F.  | I have been notified by the CBA that prior Board approval is required before practice under a new California Practice Privilege may commence.   |
| <input type="checkbox"/> | <input type="checkbox"/> |     |   |
| Y                        | N                        | G.  | I have had a judgment or arbitrate on award against me involving my professional conduct in the amount of \$30,000 or greater.  |
| <input type="checkbox"/> | <input type="checkbox"/> |     |   |

**REQUIRED ADDITIONAL INFORMATION**

I currently hold a California Practice Privilege.  Yes  No

Expiration date: \_\_\_\_\_ Unique Identifier: \_\_\_\_\_

I have held a California CPAJPA license.  Yes  No License number: \_\_\_\_\_

In addition to the state of licensure identified in Item 3. I also am authorized to practice public accountancy in the following:

State: \_\_\_\_\_ License Number: \_\_\_\_\_

State: \_\_\_\_\_ License Number: \_\_\_\_\_

*Include additional licenses on Attachment 2, if necessary.*

*An answer of "No" to any of the following statements does not disqualify you from a California Practice Privilege.*

I am an associated person of a firm registered with the PCAOB.  Yes  No

My firm has undergone peer review within the last three years.  Yes  No

The state of licensure identified in Item 3 requires CE in fraud detection.  Yes  No  
If yes, I have fulfilled this requirement.  Yes  No

I, \_\_\_\_\_, understand that any misrepresentation or omission in connection with this notification disqualifies me from the California Practice Privilege and is cause for termination. Further I authorize the California Board of Accountancy to act accordingly, including notifying other state or federal authorities. I certify under penalty of perjury under the laws of the state of California that the foregoing information is true and correct.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Unless you have checked "Y" to any items under Disqualifying Conditions, your privilege to practice commences with the submission of your properly completed notification. Your fee must be received within 30 days. Your privilege expires one year from the date of submission of this notification.





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

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

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

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

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

**§ 31. Payment of the Fee.**

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

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

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

(c) In addition to the fines described in this Section and any other applicable sanction, an individual is also subject to an administrative suspension for failure to pay the fee, including attempting to pay with a check that is subsequently dishonored. This administrative suspension shall remain in effect until the Board gives its approval for the individual to resume practice and shall not extend the term of the practice privilege.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reference: Section 5096, Business and Professions Code.

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

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

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

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

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

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

- (1) Issuance of a fine of \$250 to \$5,000;
- (2) An administrative suspension of a current practice privilege pursuant to Business and Professions Code Section 5096.4; or
- (3) The requirement to obtain the approval of the Board before commencing to practice under a future practice privilege.

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

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

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

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

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

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

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

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

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

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

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

## **Article 5- Registration**

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

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

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

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

(a) The Board will consider applications filed under Section 5087 from holders of valid unrevoked Certified Public Accountant licenses issued under the laws of any state. The Board may deny an application when the facts indicate that the applicant has been a California resident before, during or after having obtained a CPA license in another state and when the facts indicate that the applicant's CPA license was obtained in another state to evade otherwise applicable California statutes and rules.

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

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

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

### **§ 37. Reissuance.**

(a) A certified public accountant (CPA) whose certificate has been cancelled by the



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

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

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

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

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

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

(i) 16 hours in financial accounting standards.

(ii) 16 hours in auditing standards.

(iii) 8 hours in compilation and review.

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

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

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

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

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

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

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

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

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

Reference: Section 5070.7, Business and Professions Code.

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

(a) A licensee applying for renewal as a certified public accountant or public accountant who has not previously submitted fingerprints as a condition of licensure or for whom an electronic record of the licensee's fingerprints does not exist in the Department of Justice's criminal offender record identification database shall successfully complete a state and

federal level criminal offender record information search conducted through the Department of Justice by the licensee's renewal date that occurs after December 31, 2013.

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

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

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

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

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

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

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

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

Note: Authority cited: Sections 144, 462, and 5010, Business and Professions Code.

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

## **Article 6- Peer Review**

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

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

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

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

### **§ 39. Definitions.**

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

(a) Accounting and Auditing Practice: Any services that are performed using the following professional standards: Statements on Auditing Standards (SASs), Statements on Standards for Accounting and Review Services (SSARS), Statements on Standards on Attestation Engagements (SSAEs), Government Auditing Standards, and audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB).

(b) Peer Review Report: A report issued to the peer reviewed firm which documents the findings and conclusions reached by a qualified peer reviewer and issued in accordance with Section 48(b) of this Article.

(c) Pass Peer Review Report: A report issued to the peer reviewed firm in accordance with either Section 48(b)(1)(A) or 48(b)(2)(A) of this Article.

(d) Pass With Deficiencies Peer Review Report: A report issued to the peer reviewed firm in accordance with either Section 48(b)(1)(B) or 48(b)(2)(B) of this Article.

(e) Substandard Peer Review Report: A report issued to the peer reviewed firm under either Section 48(b)(1)(C) or 48(b)(2)(C) of this Article.

(f) Peer Reviewer: A certified public accountant holding a valid and active license to practice public accounting in good standing issued by this state or some other state who (1) maintains a currency of knowledge in professional standards governing accounting and auditing engagements, (2) meets the qualifications of Section 48(c) of this Article, and (3) is unaffiliated with the firm being reviewed.

(g) Peer Review Team: One or more individuals who collectively conduct a peer review, at least one of whom is a qualified peer reviewer.

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

Reference: Section 5076, Business and Professions Code.

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

(a) A firm performing services as defined in Section 39(a) shall have a peer review report accepted by a Board-recognized peer review program once every three years in order to renew its license.

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

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

Reference: Section 5076, Business and Professions Code.

#### **§ 41. Firm Responsibilities.**

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

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

#### **§ 42. Exclusions.**

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

- (1) Any of a firm's engagements subject to inspection by the Public Company Accounting Oversight Board as part of its inspection program.
- (2) Firms, which as their highest level of work, perform only preparation engagements (with or without disclaimer reports) in accordance with the provisions of the Statements on Standards for Accounting and Review Services (SSARS).

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

#### **§ 43. Extensions.**

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

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

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

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

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

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

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

(a) Beginning on January 1, 2014, at the time of renewal, a licensee shall report to the Board specific peer review information as required on Form PR-1 (Rev. 11/17), which is hereby incorporated by reference.

(b) Prior to January 1, 2014, the date for existing California licensees to report peer review results, on the form indicated in subsection (a), shall be based on the licensee's license number according to the following schedule: for license numbers ending with 01- 33 the reporting date is no later than July 1, 2011; for license numbers ending with 34- 66 the reporting date is no later than July 1, 2012; for license numbers ending with 67- 00 the reporting date is no later than July 1, 2013.

(c) A licensee's willful making of any false, fraudulent, or misleading statement, as part of, or in support of, his/her peer review reporting shall constitute cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act. Failure to submit a completed Form PR-1 (Rev. 11/17) shall be grounds for non-renewal or disciplinary action pursuant to Section 5100(g) of the Accountancy Act.

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

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

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

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

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

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

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

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

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

- (a) The Peer Review Oversight Committee shall be comprised of not more than seven licensees. The licensees shall maintain a valid and active license to practice public accounting in California issued by the Board.
- (b) No member of the committee shall be a current member or employee of the Board.
- (c) The committee shall hold meetings as necessary in order to conduct business and shall report to the Board regarding the effectiveness of mandatory peer review. This shall include an annual report to the Board regarding the results of its oversight, and shall include the scope of work, findings, and conclusions regarding its oversight.
- (d) The committee is authorized to request from a Board-recognized peer review program provider those materials necessary to perform its review.
- (e) Should a Board-recognized peer review program provider fail to respond to any request, the committee shall refer the matter to the Board.
- (f) The committee shall review and recommend to the Board for approval peer review program provider applications for recognition by the Board.

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

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

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

##### **(a) Peer Review Types**

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

- (1) For firms performing engagements under the Statements on Auditing Standards (SASs), Government Auditing Standards, examinations of prospective financial statements under the Statements on Standards on Attestation Engagements (SSAEs), or audits of non-Security Exchange Commission (SEC) issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB), the firm shall undergo a peer review designed to test the firm's system of quality control. The scope of the peer review shall be such that it provides a peer reviewer with a reasonable assurance that a firm's system of quality control was designed in accordance with professional standards and was complied with by a firm's personnel.
- (2) For firms only performing engagements under the Statements on Standards for

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

(b) Peer Review Report Issuance

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

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

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

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

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

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

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

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

(c) Peer Reviewer Qualifications

A peer review program shall include minimum qualifications for an individual to qualify

as a peer reviewer. The qualifications shall, at a minimum, include the following:

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

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

(3) Maintain a currency of knowledge of the professional standards related to accounting and auditing, including those expressly related to the type or kind of practice to be reviewed.

(4) Provide the Board-recognized peer review program provider with his/her qualifications to be a reviewer, including recent industry experience.

(5) Be associated with a firm that has received a peer review report issued in accordance with subsection (b)(1)(A) or (b)(2)(A) of this section or has received a peer review rating of pass or unmodified as part of the American Institute of Certified Public Accountants Peer Review Program as part of the firm's last peer review.

(d) Planning and Performing Peer Reviews

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

(1) For peer reviews performed in accordance with subsection (a)(1) of this section, a peer review program's guidelines and/or standards shall include the following:

(A) Ensuring that prior to performing a peer review, a peer reviewer or a peer review team takes adequate steps in planning a peer review to include the following: (i) obtain the results of a firm's prior peer review (if applicable), (ii) obtain sufficient understanding of the nature and extent of a firm's accounting and auditing practice, (iii) obtain a sufficient understanding of a firm's system of quality control and the manner in which the system is monitored by a firm, and (iv) select a representative cross-section of a firm's engagements.

(B) In performing a peer review, the peer reviewer or peer review team shall test the reviewed engagements while assessing the adequacy of and compliance with a firm's system of quality control. The peer review is intended to provide the peer reviewer or peer review team with reasonable basis for expressing an opinion as to whether a firm's system of quality control is suitably designed and complied with by a firm's personnel such that the firm has reasonable assurance of performing and reporting on engagements in conformity with applicable professional standards.

(2) For peer reviews performed in accordance with subsection (a)(2) of this section, a peer review program's guidelines and/or standards shall include the following:

(A) Ensuring that prior to performing a peer review, a peer reviewer or peer review team select a representative cross-section of a firm's accounting and auditing engagements to include at a minimum one engagement for each partner, shareholder, owner, principal, or licensee authorized to issue reports.

(B) In performing a peer review, the peer reviewer or peer review team shall review the selected engagements to determine if the engagements were performed in conformity with the applicable professional standards.

(3) Nothing in a peer review program provider's guidelines and/or standards shall prohibit a peer reviewer or peer review team from disclosing pertinent peer review-



related information regarding a firm to a subsequent peer reviewer.

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

(1) The administration plan shall clearly outline the manner in which the peer review program provider intends on administering peer reviews and shall, at a minimum, include the following:

(A) Identify a peer review committee, and if necessary subcommittees, and employ knowledgeable staff for the operation of the review program as needed.

(B) Establish and perform procedures for ensuring that reviews are performed and reported on in accordance with the program's established standards for performing and reporting on peer reviews.

(C) Establish a program to communicate to firms participating in the peer review program the latest developments in peer review standards and the most common findings in peer reviews conducted by the Board-recognized peer review program provider.

(D) Establish and document procedures for an adjudication process designed to resolve any disagreement(s) which may arise out of the performance of a peer review, and resolve matters which may lead to the dismissal of a firm from the provider's peer review program.

(E) Establish guidelines for prescribing remedial or corrective actions designed to assure correction of the deficiencies identified in a firm's peer review report.

(F) Establish guidelines for monitoring the prescribed remedial and corrective actions to determine compliance by the reviewed firm.

(G) Establish and document procedures for ensuring adequate peer reviewers to perform peer reviews. This shall include ensuring a breadth of knowledge related to industry experience.

(H) Establish and document procedures to ensure the qualifications of peer reviewers and to evaluate a peer reviewer's performance on peer reviews.

(I) Establish a training program or training programs designed to maintain or increase a peer reviewer's currency of knowledge related to performing and reporting on peer reviews.

(J) Establish and document procedures to ensure that a firm requiring a peer review selects a peer reviewer with similar practice experience and industry knowledge, and peer reviewer is performing a peer review for a firm with which the reviewer has similar practice experience and industry knowledge.

(K) Require the maintenance of records of peer reviews conducted under the program. Such records shall include, at a minimum, written records of all firms enrolled in the peer review program and documents required for submission under Section 46, with these documents to be retained until the completion of a firm's subsequent peer review.

(L) Provide to the Board's Peer Review Oversight Committee access to all materials and documents required for the administration of peer reviews.

(2) As required by subsection (e)(1)(A) of this section, the peer review program provider shall establish a peer review committee to assist in the review and acceptance of peer review reports. The peer review program provider's committee shall:

(A) Meet regularly to consider and accept peer review reports.

(B) Assist the peer review program provider in resolving instances in which there is a lack of cooperation and agreement between a peer reviewer and/or reviewed firm in accordance with the peer review program's adjudication process.

(C) Make a final determination on a peer review report pursuant to subdivision (b).

(f) The peer review committee established by the peer review program provider shall comply with the following in relation to the composition of the committee:

(1) All committee members shall meet the peer reviewer qualification requirements established in Section 48(c).

(2) In determining the size of the committee, consideration shall be given to the requirement for broad industry experience, and the likelihood that some members will need to recuse themselves from some reviews as a result of the member's close association to the firm or having performed the review.

(3) No committee member may concurrently serve as a member of the Board.

(4) A committee member may not participate in any discussion or have any vote with respect to a reviewed firm when the member lacks independence as defined by California Code of Regulations Section 65 or has a conflict of interest. Examples of conflicts of interest include, but are not limited to:

(A) the member's firm has performed the most recent peer review of the reviewed firm's accounting and auditing practice.

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

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

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

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

Reference: Section 5076, Business and Professions Code.

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

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

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

Reference: Section 5076, Business and Professions Code.

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

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

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

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

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

- (1) Standards, procedures, guidelines, training materials, and similar documents prepared for the use of reviewers and reviewed firms.
- (2) Information concerning the extent to which the Board-recognized peer review program provider has reviewed the quality of reviewers' working papers in connection with the acceptance of reviews.
- (3) Statistical data maintained by the Board-recognized peer review program provider related to its role in the administration of peer reviews.
- (4) Information concerning the extent to which the Board-recognized peer review program provider has reviewed the qualifications of its reviewers.
- (5) Sufficient documents to conduct sample reviews of peer reviews accepted by the Board-recognized peer review program provider. These may include, but are not limited to; the report; reviewer working papers prepared or reviewed by the Board-recognized peer review program's peer review committee in association with the acceptance of the review; and materials concerning the acceptance of the review, including, but not limited to, the imposition of required remedial or corrective actions; the monitoring procedures applied; and the results.

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

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

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

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

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

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

- (1) The name and business address of the provider making the appeal.
- (2) The action being appealed and the date of any written notification by the Board.
- (3) A summary of the basis for the request for an informal hearing, including any information which the provider believes was not given adequate consideration by the Board.

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

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

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

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

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

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

- (1) The reason for the withdrawal, including the specific statutes and regulations with which the program showed non-compliance.
- (2) A statement that the peer review program provider has the right, within 30 days, to request an informal hearing to appeal the withdrawal of Board recognition.
- (3) A statement that any informal hearing shall be scheduled before the Board or its designee, at which time a peer review program provider shall be afforded the

opportunity to be heard.

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

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

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

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

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

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

### **Article 8- Appeals**

#### **§ 49. Appeals.**

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

(1) The name, business address and residence address of the applicant making the appeal.

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

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

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

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

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

### **§ 50. Client Notification.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

executive officer.

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

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

Reference: Sections 5018, 5100, 5103 and 5108, Business and Professions Code.

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

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

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

Reference: Section 5018, Business and Professions Code.

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

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

(a) The licensee provides reasonable notice to the prospective client or the prospective client's representative that the information will not be treated as confidential information in the event the provider does not become a client and that providing such information will not preclude the licensee from being employed by a party adverse to the potential client in any current or future legal action or proceeding. For purposes of this section "reasonable notice" shall mean the following: (1) With respect to oral communications, including telephonic communications, reasonable notice consists of oral notice to the speaker given immediately by the licensee upon hearing that client information is being presented or will be presented. (2) With respect to written communications, including electronic and facsimile communications, reasonable notice consists of an oral or written notice to the sender within one business day.

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

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

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

Reference: Section 5018, Business and Professions Code.



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

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

- (1) disclosures made by a licensee in compliance with a subpoena or a summons enforceable by order of a court;
- (2) disclosures made by a licensee regarding a client or prospective client to the extent that the licensee reasonably believes that it is necessary to maintain or defend himself/herself in a legal proceeding initiated by that client or prospective client;
- (3) disclosures made by a licensee in response to an official inquiry from a federal or state government regulatory agency;
- (4) disclosures made by a licensee or a licensee's duly authorized representative to another licensee in connection with a proposed sale or merger of the licensee's professional practice;
- (5) disclosures made by a licensee to (A) another licensee to the extent necessary for purposes of professional consultation and to (B) professional standards review, ethics or quality control peer review organizations;
- (6) disclosures made when specifically required by law;
- (7) disclosures made at the direct request of the client to a person or entity that is designated by the client at the time of the request.

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

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

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

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

- (a) as part of disciplinary proceedings with the Board,
- (b) as part of legal actions in which the Board is a party,
- (c) in response to an official inquiry from a federal or state governmental regulatory agency,
- (d) in compliance with a subpoena or summons enforceable by order of a court, or
- (e) when otherwise specifically required by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

Nothing in Section 56 permits a licensee either (1) to accept any fee or commission which would violate the requirement that a licensee be independent in the performance of services in accordance with professional standards (Section 65) or (2) to concurrently engage in the practice of public accountancy and in any other business or occupation which impairs the licensee's independence, objectivity, or creates a conflict of interest in rendering professional services (Section 57). However, the act of a licensee taking a fee or commission as permitted by Business and Professions Code Section 5061 and in conformity with Section 56 does not, by itself, constitute an impairment of a licensee's objectivity or create a conflict of interest in rendering professional services.

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

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

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

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

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

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

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

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

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

contracts, percentage of completion or other commonly recognized and accepted accounting method).

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

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

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

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

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

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

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

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

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

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

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

(b) The report required by subsection (a) shall be made by the licensee issuing the report on the restatement even if the licensee did not perform the original audit. The report required by subsection (a) shall be provided to the Board within 30 days of issuance of the restatement, shall be signed by the licensee, and shall set forth the facts which constitute

the reportable event including an explanation of the reason for the restatement. The report made under paragraph (a)(1) of this section shall include copies of the original and the restated financial statements. The report made under paragraph (a)(2) of this section shall include only those portions of the original and the amended Forms 990 or 990PF related to the reissued financial statement.

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

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

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

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

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

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

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

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

(c) Reports received by the Board pursuant to the requirements of subsection (a) of this section shall not be publicly disclosed other than (1) in the course of any disciplinary proceeding by the Board after the filing of a formal accusation; (2) in the course of any legal action to which the Board is a party; (3) in response to an official inquiry from a state

or federal agency; (4) in response to a subpoena or summons enforceable by order of a court; or (5) when otherwise specifically required by law.

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

## **§ 62. Contingent Fees.**

(a) A licensee shall not:

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

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

(B) a compilation of a financial statement when the licensee expects or reasonably should expect that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

(C) an examination of prospective financial information; or

(D) any other attest engagement when the licensee expects or reasonably should expect that a third party will use the related attestation report; or

(E) any other services requiring independence.

(2) Prepare an original tax return for a contingent fee for any client.

(3) Prepare an amended tax return, claim for tax refund, or perform other similar tax services for a contingent fee for any client.

(4) Perform an engagement as a testifying expert for a contingent fee.

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

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

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

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

## **§ 63. Advertising.**

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

Professions Code.

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

**§ 65. Independence.**

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

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

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

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

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

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

A licensee, after demand by or on behalf of a client, for books, records or other data, whether in written or machine sensible form, that are the client's records shall not retain such records. Unpaid fees do not constitute justification for retention of client records. Although, in general the accountant's working papers are the property of the licensee, if such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client, then the information on those working papers must be treated the same as if it were part of the client's books and records.

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

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

(a) Working papers are the licensee's records of the procedures applied, the tests performed, the information obtained and the pertinent conclusions reached in an audit, review, compilation, tax, special report or other engagement. They include, but are not limited to, audit of other programs, analyses, memoranda, letters of confirmation and representations, abstracts of company documents and schedules or commentaries

prepared or obtained by the licensee. The form of working papers may be handwriting, typewriting, printing, photocopying, photographing, computer, data, or any other letters, words, pictures, sounds, or symbols or combinations thereof.

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

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

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

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

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

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

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

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

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

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

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

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

(d) Audit documentation shall be retained whether or not the documentation supports the auditor's final conclusions. All audit documentation regarding any significant matter related to the audit shall be retained whether or not the documentation contains



information or data inconsistent with the auditor's final conclusions. Significance of a matter shall be determined based on an objective analysis of the facts and circumstances. Audit documentation to be retained shall also include all documentation of consultations on, or resolutions of, any differences of opinion regarding the exercise of professional judgment.

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

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

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

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

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

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

(c) In addition to any other documentation required by professional standards, any addition to audit documentation after the end of the document assembly period shall include the following: 1) the reason for the addition, 2) the identity of the persons preparing and approving the addition, and 3) the date of the addition. The documentation which is added shall contain sufficient detail to enable a reviewer with relevant knowledge and experience, having no previous connection with the audit engagement, to understand the nature, timing, reason for, and extent of the addition.

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

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

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

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

upon request.

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

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

(2) procedures for maintaining audit documentation,

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

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

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

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

Reference: Sections 5097 and 5098, Business and Professions Code.

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

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

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

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

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

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

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

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

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

(e) The failure or refusal, by any licensee to complete and submit a certification of

experience or to comply with a request for explanation of said certification or inspection of documentation as set forth in this rule constitutes a violation of Section 5100(g) of the Accountancy Act.

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

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

## **Article 10- Fees**

### **§ 70. Fees.**

(a)(1) From July 1, 2014 to June 30, 2016, the application fee for the computer-based Uniform Certified Public Accountant Examination shall be \$50 for issuance of the Authorization to Test to first-time applicants and \$25 for issuance of the Authorization to Test to repeat applicants.

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

(b)(1) From July 1, 2014 to June 30, 2016, the application fee for issuance of a certified public accountant certificate shall be \$50.

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

(c)(1) From July 1, 2014 to June 30, 2016, the application fee for registration as a partnership or as a corporation, including registration under a new name as a partnership or as a corporation, shall be \$30.

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

(d)(1) From July 1, 2014 to June 30, 2016, the fee for the initial permit to practice as a partnership, a corporation, or a certified public accountant shall be \$50.

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

(e)(1) [Reserved]

(2) For licenses expiring between July 1, 2014 and June 30, 2016, the fee to be charged each applicant for renewal of a permit to practice as a partnership, a corporation, a public accountant, or a certified public accountant shall be \$50.

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

(f) The fee for the processing and issuance of a duplicate copy of a certificate of

licensure or registration shall be \$10.

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

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

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

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

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

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

(j) By May 31, 2015, the Board shall conduct a review of its actual and estimated costs. Based on this review, the Board shall determine the appropriate level of fees for the initial permit to practice pursuant to subsection (d) and renewal of the permit to practice pursuant to subsection (e) in order to maintain the Board's contingent fund reserve balance at an amount equal to approximately three months of estimated annual authorized expenditures. If the Board determines that fees of less than \$120 are indicated, the Board shall fix the fees by regulation at the indicated amounts by July 1, 2016.

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

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

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

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

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

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

## **Article 11- Accountancy Corporation Rules**

### **§ 75.4. Office for Filing.**

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

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

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

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

(b) A Certificate of Registration shall be issued if the board finds that the applicant corporation has complied with Sections 13401 to 13409, inclusive, of the Corporations Code, Sections 5151 to 5155, inclusive, of the Business and Professions Code, and Sections 75.7 to 75.10, inclusive, of these Rules.

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

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

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

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

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

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

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

rendering of, or failure to render, professional services.

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

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

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

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

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

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

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

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

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

**Article 12- Continuing Education Rules**

**§ 80. Inactive License Status.**

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

(b) The holder of a license in an inactive status shall not engage in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code. This section does not prohibit a holder of a license in an inactive status from receiving a share of the net

profits from a public accounting firm or other compensation from a public accounting firm, provided that the licensee does not otherwise engage in the practice of public accountancy.

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

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

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

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

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

Reference: Section 462, Business and Professions Code.

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

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

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

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

(3) apply to the Board in writing requesting to convert the license to an active status; and

(4) complete any continuing education that is required pursuant to subsection (k) of Section 89.

(b) A licensee with a license in an inactive or retired status may not practice public accountancy until the Board approves the application for conversion, or restoration, of the license to an active status.

(c) A licensee who, during the 24 months prior to converting, or restoring, his/her license to an active status, planned, directed, or conducted substantial portions of field work, or reported on financial or compliance audits of a governmental agency shall complete 24 hours of continuing education in governmental auditing as described in Section 87(c) as part of the 80 hours of continuing education required to convert his/her license to an

active status under subsection (a). A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (d).

(d) A licensee who, during the 24 months prior to converting, or restoring, his/her license to an active status, planned, directed, or performed substantial portions of the work or reported on an audit, review, compilation, or attestation service shall complete 24 hours of continuing education in accounting and auditing as described in Section 87(d) as part of the 80 hours of continuing education required to convert his/her license to an active status under subsection (a).

(e) A licensee who, during the 24 months prior to converting, or restoring, his/her license to an active status provided preparation engagements as his/her highest level of service shall complete eight hours of continuing education in courses described in Section 87(e) as part of the 80 hours of continuing education required to convert his/her license to an active status under subsection (a).

(f) A licensee who must complete continuing education pursuant to subsections (c), (d), or (e) shall also complete an additional four hours of continuing education specifically related to the prevention, detection, and/or reporting of fraud affecting financial statements as described in Section 87(f). This continuing education shall be part of the 80 hours of continuing education required by subsection (a), but shall not be part of the continuing education required by subsections (c), (d), or (e).

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

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

(a) All continuing education required by this section must be completed on or after the date of conversion, or restoration, to active status.

(b) Once a license is converted, or restored, to an active status, the licensee must complete 20 hours of continuing education as described in Section 87(a)(2) and (a)(3) for each full six month period from the date of license status conversion to the next license expiration date in order to fulfill the continuing education requirement for license renewal. If the time period between the date of license status conversion and the next license expiration date is less than six full months, no continuing education is required for license renewal.

(c) Once a license is converted, or restored, to an active status, a licensee who engages in financial or compliance auditing of a governmental agency at any time between the date of license status conversion, or restoration, and the next license expiration date shall complete six hours of governmental auditing continuing education as part of each 20 hours of continuing education required under subsection (b). Continuing education in the areas of governmental accounting and auditing shall meet the requirements of Section 87(c). A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (d).

(d) Once a license is converted, or restored, to an active status, a licensee who engages



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

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

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

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

(2) A licensee who is required to complete a total of 80 hours of continuing education pursuant to this subsection shall also complete, as a part of the 80 hours, the following: (A) Four hours of ethics education pursuant to Section 87(b).

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

(g) Failure to Comply.

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

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

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

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

renewal period to another.

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

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

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

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

Reference: Sections 5026, 5027, 5028 and 5051, Business and Professions Code.

## **§ 87. Basic Requirements.**

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

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

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

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

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

(b) Ethics Continuing Education Requirement

A licensee renewing a license in an active status shall complete four hours of the 80 hours of continuing education required pursuant to subsection (a) in an ethics course. The course subject matter shall consist of one or more of the following areas: a review of nationally recognized codes of conduct emphasizing how the codes relate to professional responsibilities; case-based instruction focusing on real-life situational learning; ethical

dilemmas facing the accounting profession; or business ethics, ethical sensitivity, and consumer expectations. Programs in the following subject areas are not acceptable toward meeting this requirement: sexual harassment, workplace harassment, or workplace violence. Courses must be a minimum of one hour as described in Section 88.2.

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

A licensee who engages in planning, directing, conducting substantial portions of field work, or reporting on financial or compliance audits of a governmental agency shall complete 24 hours of the 80 hours required pursuant to subsection (a) in the areas of governmental accounting, auditing or related subjects. This continuing education shall be completed in the same two-year license renewal period as the report is issued. A governmental agency is defined as any department, office, commission, authority, board, government-owned corporation, or other independent establishment of any branch of federal, state or local government. Related subjects are those which maintain or enhance the licensee's knowledge of governmental operations, laws, regulations or reports; any special requirements of governmental agencies; subjects related to the specific or unique environment in which the audited entity operates; and other auditing subjects which may be appropriate to government auditing engagements. A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (d).

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

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

**(e) Accounting and Auditing Continuing Education Requirement When Providing Preparation Engagements as Highest Level of Service.** A licensee who provided preparation engagements as his/her highest level of service shall complete eight hours of the 80 hours of continuing education required pursuant to subsection (a) in preparation engagements or accounting and auditing as described in Section 87(d).

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

**(g) Failure to Comply.**

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

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

Reference: Sections 5026, 5027, 5028 and 5051, Business and professions Code.

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

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

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

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

(d) Once a license is issued, a licensee who engages in financial or compliance auditing of a governmental agency at any time between the date the initial license was issued and the first license expiration date shall complete six hours of governmental auditing continuing education as part of each 20 hours of continuing education required under subsection (b). Continuing education in the areas of governmental accounting and auditing shall meet the requirements of Section 87(c). A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (e).

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

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

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

(h) If an initial license expires as defined in Section 81(b)(2), the licensee must complete an additional 20 hours of continuing education as described in Section 87(a)(2) and (a)(3) for each full six month period from the date of license expiration to the date on which the

licensee applies for license renewal, up to a total of 80 hours of continuing education. If the time period between the date the license expired and the date on which the licensee applies for license renewal is less than six full months, no additional continuing education is required for license renewal.

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

(j) Failure to Comply.

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

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

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

(a) Following an investigation or hearing conducted pursuant to Business and Professions Code Section 5103 the Board or its designee may order a licensee to:  
(1) Complete one or more hours of continuing education not to exceed 80 hours in addition to the 80 hours qualifying continuing education required by Section 87, subsection (a), prior to permit renewal, which will contribute to the licensee's professional competence.

(2) Complete one or more of the 80 hours of qualifying continuing education required by Section 87, subsection (a), or one or more of the hours ordered pursuant to subsection (a)(1) of this section, in a designated course of study which will contribute to the licensee's professional competence.

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

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

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

### **§ 87.6. Records Review Continuing Education Requirements.**

(a) The Report Quality Monitoring Committee is a committee appointed by the Board. This committee's functions include the review of financial reports selected under Section 89.1 to monitor and promote compliance with applicable accounting principles and reporting standards. The Report Quality Monitoring Committee may order a licensee to:

(1) Complete one or more of the 80 hours of qualifying continuing education required by Section 87(a) in a designated course of study which will contribute to the licensee's professional competence.

(2) Complete one or more of the 80 hours of qualifying continuing education required by Section 87(a) or 87.6(a)(1) by a specified date. Such date may be extended by the committee.

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

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

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

(a) In order to renew a license in an active status after December 31, 2009, a licensee shall, within the six years preceding the license expiration date, complete a continuing education course on the provisions of the California Accountancy Act and the California Board of Accountancy Regulations specific to the practice of public accountancy in California emphasizing the provisions applicable to current practice situations. The course also will include an overview of historic and recent disciplinary actions taken by the Board, highlighting the misconduct which led to licensees being disciplined. The course shall be a minimum of two hours, and a licensee shall select from a list of Board- approved courses. The two hours can be counted towards the 80 hours required pursuant to Section 87.

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

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

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

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

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

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

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

(4) A self-study course is required to demonstrate an average completion time of two 50-minute continuing education hours by pre-testing the documentation from a minimum of four current and active certified public accountants simulating the manner in which the course will be completed and showing the length of time spent by each participant to complete the course. Pre-testing participants are required to be independent of the group that developed and/or are offering the course and provide feedback on the level of difficulty of the course.

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

(6) The course content shall include the following:

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

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

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

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

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

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

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

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

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

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

(f) A provider whose course is denied approval or when a previous approval is canceled by Board staff may appeal such action to the Board. The appeal shall be filed within six

months of the action being appealed or the mailing of written notification, whichever is later. The appeal shall contain the following information:

- (1) The name and business address of the provider making the appeal.
  - (2) The action being appealed and the date of any written notification from the Board.
  - (3) A summary of the basis for the appeal, including any information which the provider believes was not given adequate consideration by staff.
- (g) The Board will consider only appeals based on information previously considered by staff. If the provider wishes to submit for consideration additional evidence or information not previously submitted to staff, such additional information should be submitted directly to staff with the request that its previous action be reconsidered. An appeal based on evidence or information not previously submitted to staff will be referred by the Board to staff for further consideration.

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

### **§ 88. Programs Which Qualify.**

- (a) (1) The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of a licensee in public practice. It is the obligation of each licensee to select a course of study, consistent with the requirements of this section and Sections 88.1 and 88.2, which will contribute directly to his/her professional competence.
- (2) A formal program of learning is an instructional activity that meets the requirements of this section and Sections 88.1 and 88.2 or a course for which academic credit is granted by a university, college, or other institution of learning accredited by a regional or national accrediting agency.
- (b) The following types of live presentation programs are deemed to qualify as acceptable continuing education provided the standards outlined in Section 88(a), Section 88.1, and Section 88.2 are maintained.
- (1) Professional development programs of national and state accounting organizations.
  - (2) Technical session at meetings of national and state accounting organizations and their chapters which are designed as formal educational programs.
  - (3) University or college courses:
    - (i) Credit courses -each semester hour credit shall equal 15 hours toward the requirement. Each quarter hour credit shall equal 10 hours.
    - (ii) Non credit courses -each classroom hour will equal one qualifying hour.
  - (4) Other formal educational programs provided the program meets the required standards.
- (c) Group Internet-Based Programs (Webcast): Programs that enable a licensee to participate from a computer in an interactive course presented by a live instructor at a distant location are qualifying, provided the program is based upon materials specifically developed for instructional use and meets the requirements of Section 88(a), Section 88.1



and Section 88.2. Group viewing of a webcast program is permissible only where a live facilitator logs into the program to ask questions on behalf of the group. The live facilitator shall document and verify group participation and attendance in accordance with the requirements of Section 88.1 and 88.2.

(d) Formal correspondence or other individual study programs are qualifying provided:

(1) the program is based upon materials specifically developed for instructional use,  
(2) the program meets the requirements of Section 88(a), Section 88.1, and Section 88.2,

(3) the program is completed within one year from the date of purchase or enrollment,  
and

(4) the licensee receives a passing score.

(e) Self-study modules for national examinations that contribute to the professional competency of a licensee in public practice, such as the CERTIFIED FINANCIAL PLANNER™ Certification Examination or the Certified Management Accountant examination qualify as acceptable continuing education if the modules meet the requirements of subsection (d).

(f) Credit as an instructor, discussion leader, or speaker shall be allowed for any meeting or program provided that the session is one which meets the continuing education requirements set forth in subsection (a)(1), Section 88.1, and Section 88.2. The credit allowed an instructor, discussion leader, or a speaker shall be on the basis of actual presentation hours, plus up to two additional hours for actual preparation time for each hour taught. The maximum credit for such preparation and teaching shall not exceed 50 percent of the renewal period requirement. For repeat presentations, an instructor shall receive no credit unless the instructor can demonstrate that the program content was substantially changed and that such change required significant additional study or research. Credit for licensees attending, not as instructors, discussion leader, or speakers, is limited to the actual meeting time.

(g) Credit may be allowed by the Board on an hour-for-hour basis for the following activities:

(1) Writing published articles and books provided the publisher is not under the control of the licensee, and the article and/or book would contribute to his/her professional competence.

(2) Writing instructional materials for any continuing education program which meets the requirements of subsection (a)(1), Section 88.1, and Section 88.2,

(3) Writing questions for the Uniform Certified Public Accountant Examination,

(4) Performing a technical review of instructional materials for any continuing education program which meets the requirements of subsection (a)(1), Section 88.1, and Section 88.2. For the purposes of this section a technical review shall mean reviewing for technical accuracy, currency of the information, and attainment of stated learning objectives.

(h) The maximum credit allowed under subsection (g) shall not exceed 25 percent of the renewal period requirement.

(i) In order for any continuing education hours to be acceptable to the Board under this article, the hours shall be completed in a program which qualifies under this section or

Section 87.9.

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

**§ 88.1. Provider Requirements.**

**(a) Live Presentation**

In order to qualify as acceptable continuing education under Section 88(b) the provider of a live presentation program must:

- (1) Require attendance and retain for a period of five years a record of attendance that accurately assigns the appropriate number of contact hours for participants including those who arrive late or leave early.
- (2) Retain for a period of five years written educational goals and specific learning objectives, as well as a syllabus, which provides a general outline, instructional objectives, and a summary of topics for the course. A copy of the educational goals, learning objectives, and course syllabus shall be made available to the California Board of Accountancy upon request.
- (3) Issue a certificate of completion, with verification certified by a program provider representative such as a signature or seal, to each licensee upon satisfactory completion of the course and retain records of licensees receiving certificates of completion for a period of five years. The amount of credit reflected on the certificate of completion shall be calculated in accordance with Section 88.2(a). The certificate of completion must delineate the subject areas, as described in Section 87(a)(2) and (3), for which the licensee may claim credit.

**(b) Group Internet-Based Programs (Webcast)**

In order to qualify as acceptable continuing education under Section 88(c), the provider of a Group Internet-Based Program (Webcast) must:

- (1) Require and monitor attendance throughout the program by using attendance monitoring devices such as polling, questions, or surveys. The program shall include a minimum of three monitoring events each hour, at least one of which occurs at an irregular interval.
- (2) Have a live instructor while the program is being presented and a feature allowing participants to send questions/comments directly to the instructor and receive answers during the program.
- (3) If it is recorded or archived, have a live subject matter expert facilitate the program (Webcast) to answer questions. A recorded or archived program that does not have a live subject matter expert must meet the self-study requirements of subsection (c), Section 88, and Section 88.2(c).
- (4) Retain for a period of five years a record of attendance that accurately assigns the appropriate number of participation hours for participants.
- (5) Retain for a period of five years written educational goals and specific learning objectives, as well as a syllabus, which provides a general outline, instructional objectives, and a summary of topics for the course. A copy of the educational goals, learning

objectives, and course syllabus shall be made available to the California Board of Accountancy upon request.

(6) Issue a certificate of completion, with verification certified by a program provider representative such as a signature or seal, to each licensee upon satisfactory completion of the course. Satisfactory completion shall at a minimum require responding to at least 75 percent of the monitoring events described in subsection (b)(1) during the period for which continuing education credit is being granted. Retain records of licensees receiving certificates of completion for a period of five years. The amount of credit shall be displayed on the certificate of completion and shall be calculated in accordance with Section 88.2(b). The certificate of completion must delineate the subject areas, as described in Section 87(a)(2) and (3), for which the licensee may claim credit.

(7) Have a written policy to address rescheduling and the granting of partial credit in the event of a technology failure, and make that policy available to the Board upon request.

(c) Self-Study in order to qualify as acceptable continuing education under Section 88(d) the provider of a self-study course must:

(1) Retain for a period of five years written educational goals and specific learning objectives, as well as a syllabus, which provides a general outline, instructional objectives, and a summary of topics for the course. A copy of the educational goals, learning objectives, and course syllabus shall be made available to the California Board of Accountancy upon request.

(2) Issue a certificate of completion, with verification certified by a program provider representative such as a signature or seal, to each licensee upon satisfactory completion of the course and retain records of licensees receiving certificates of completion for a period of five years. The amount of credit shall be displayed on the certificate of completion and shall be calculated in accordance with Section 88.2(c). The certificate of completion must delineate the subject areas, as described in Section 87(a)(2) and (3), for which the licensee may claim credit.

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

Reference: Sections 5026 and 5027, Business and Professions Code.

## **§ 88.2. Program Measurements.**

### **(a) Live Presentation**

In order to qualify as acceptable continuing education under Section 88(b) a live presentation program must:

(1) Be measured in 50-minute class hours. A program must be at least one 50-minute class hour in length to be acceptable continuing education. For a program composed of several segments in which individual segments are less than 50 minutes, the sum of the segments, in increments not less than 25 minutes, may be added together to equal a full 50-minute class hour. For a program that is longer than one 50-minute class hour, credit shall be granted for additional 25-minute segments (one-half of a 50-minute class hour). Only class hours or the equivalent (and not participant hours devoted to preparation or

study time) will be used to measure the hours of continuing education.

(2) Any program designed pursuant to Section 87(b) must be a minimum of one 50-minute class hour. Should a course be comprised of multiple subject areas as described in Section 87(a)(2), those components specific to Section 87(b) must be a minimum of one 50-minute class hour.

(3) Meet the provider requirements for live presentation under Section 88.1(a).

(b) Group Internet-Based Program (Webcast)

In order to qualify as acceptable continuing education under Section 88(c), a Group Internet-Based Program (Webcast) must:

(1) Be measured by actual program length in 50-minute class hours. A program must be a minimum of one 50-minute class hour in length to be acceptable continuing education. For a program composed of several segments, the sum of the segments, in increments not less than 25 minutes, may be added together to equal a full 50-minute class hour. For a program that is longer than one 50-minute class hour, credit shall be granted for additional 25-minute segments (one-half of a 50-minute class hour). Only class hours or the equivalent (and not participant hours devoted to preparation or study time) will be used to measure the hours of continuing education.

(2) Any program designed pursuant to Section 87(b) must be a minimum of one 50-minute class hour. Should a program be comprised of multiple subject areas as described in Section 87(a)(2), those components specific to Section 87(b) must be a minimum of one 50-minute class hour.

(3) Meet the provider requirements for Group Internet-Based Program (Webcast) under Section 88.1(b).

(c) Self-Study in order to qualify as acceptable continuing education under Section 88(d), a self-study course, whether in electronic or paper text format, must:

(1) Grant continuing education credit calculated using one of the following methods: (A) Demonstrating an average completion time, measured in 50-minute continuing education hours, by pre-testing the documentation from a minimum of three current and active certified public accountants simulating the manner in which the course will be completed and showing the length of time spent by each participant to complete the course. Pre-testing participants are required to be independent of the group that developed and/or are offering the course and provide feedback on the level of difficulty of the course. The continuing education credit shall be rounded down to the nearest one-half hour credit when the total minutes of the program are not equally divisible by 50. (B) Demonstrating an average completion time, measured in 50-minute continuing education hours, by dividing the number of words contained in the text of the required reading (excluding any material not critical to the achievement of the stated learning objectives such as the course introduction, author biography, instructions, table of contents, and supplementary reference materials) by 180, adding the actual length of time in minutes of any audio or video segments, adding the number of review questions, exercises, and final examination questions multiplied by 1.85, and dividing the total by 50. The continuing education credit shall be rounded down to the nearest one-half hour credit when the total minutes of the program are not equally divisible by 50.

(2) Clearly define lesson objectives and manage the participant through the learning

process by requiring frequent participant response to questions that test for understanding of the material presented, providing evaluated feedback to incorrectly answered questions and reinforcement feedback to correctly answered questions. For purposes of this section, evaluated feedback means a response specific to each incorrect answer to the study questions that explains why the particular answer is wrong, as each one is likely to be wrong for a different reason. For purposes of this section, reinforcement feedback means a response to the correct answer of the study questions that restates and explains why the answer selected was correct.

(3) Any program designed pursuant to Section 87(b) must be a minimum of one class hour. Should a program be comprised of multiple subject areas as described in Section 87(a)(2), those components specific to Section 87(b) must be a minimum of one 50-minute class hour.

(4) Require a passing score on a test given at the conclusion of the course. The test shall not include true/false type questions.

(5) Meet the provider requirements for self-study under Section 88.1(c).

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

Reference: Sections 5026 and 5027, Business and Professions Code.

### **§ 89. Control and Reporting.**

(a) Upon renewal, a licensee who is required, pursuant to Section 80.2, 81, 87, or 87.1, to obtain continuing education must provide a written statement, signed under penalty of perjury, certifying that the requisite number of continuing education hours has been obtained. The licensee shall disclose the following information concerning courses or programs claimed as qualifying continuing education hours:

(1) Course title or description

(2) Date of completion

(3) Name of school, firm or organization providing the course or program

(4) Method of study, i.e., whether course or program is self-study, live presentation or Group Internet-Based Program (Webcast)

(5) Number of hours earned.

(6) Subject areas as described in Section 87(a)(2) and (3).

(b) If credit is claimed for completing the two hour regulatory review course specified in Section 87.8, a licensee shall obtain and retain for six years after renewal of his/her license, a certificate of completion or its equivalent disclosing the following information:

(1) Name of licensee

(2) Course title

(3) Board-issued approval number for the regulatory review course completed by the licensee

(4) School, firm or organization providing the course

(5) Date of completion

(6) Verification by a program provider representative, such as a signature or seal.

(c) If continuing education credit for attending a continuing education course is claimed,

the licensee shall obtain and retain for four years after renewal a certificate of completion or its equivalent disclosing the following information:

- (1) Name of licensee in attendance
  - (2) School, firm or organization conducting course
  - (3) Location of course attended
  - (4) Title of course or description of content
  - (5) Dates of attendance except when the licensee attended a course for academic credit given by a college, university, or other institution of higher learning accredited by an association recognized by the Secretary of the United States Department of Education, in which case the applicant may provide evidence of a grade of pass or "credit" to satisfy this requirement.
  - (6) Number of hours of actual attendance except when the licensee attended a course for academic credit given by a college, university, or other institution of higher learning accredited by an association recognized by the Secretary of the United States Department of Education, in which case the applicant may provide evidence of a grade of pass or "credit" to satisfy this requirement.
  - (7) Verification by a program provider representative, such as a signature or seal.
  - (8) Subject areas as described in Section 87(a)(2) and (3).
- (d) If continuing education credit is claimed for completing a self-study course, the licensee shall obtain and retain for four years after renewal a receipt or its equivalent documenting the date of purchase or enrollment and a certificate of completion or its equivalent disclosing the following information:
- (1) Name of licensee taking the course
  - (2) School, firm, or organization providing the course
  - (3) Title of course or description of contents
  - (4) Date of completion
  - (5) Number of hours of continued education credit granted for completing the course.
  - (6) Subject areas as described in Section 87(a)(2) and (3).
- (e) If credit as an instructor, discussion leader, or speaker is claimed, the licensee shall retain for four years after renewal the following information:
- (1) School, firm or organization providing course
  - (2) Location of course presented
  - (3) Title of the course or description of content
  - (4) Course outline
  - (5) Dates and evidence of presentation
  - (6) Number of hours of actual preparation time and presentation time.
- (f) If credit is claimed for writing continuing education instructional materials, the following information shall be maintained for four years after renewal:
- (1) Name of the course provider or publisher
  - (2) Title of the course and a description of the instructional materials
  - (3) Date of completion of the instructional materials or publication date
  - (4) A copy of the instructional materials
  - (5) Hours claimed.
- (g) If credit for published articles and books is claimed, the following information shall be

maintained for four years after renewal:

(1) Name and address of publisher

(2) Title of publication

(3) Brief description

(4) Date(s) of

publication (5) Copy of

publication (6) Hours

claimed

(h) If credit for writing questions for the Uniform CPA Examination is claimed, the licensee shall obtain and retain for four years after renewal a letter or other statement from the American Institute of Certified Public Accountants documenting the licensee's participation and the number of hours of continuing education credit the licensee has received.

(i) If credit is claimed for performing a technical review of continuing education instructional materials, the following information shall be maintained for four years after renewal:

(1) Name of the course provider or publisher,

(2) Title of the course and a description of the instructional materials,

(3) Date the review was completed,

(4) A copy of the instructional materials, and

(5) Hours claimed.

(j) The Board may solicit and verify such information. If a licensee is found to have a deficiency, the licensee shall be so notified and shall be required to provide copies of the documentation required by this section.

(k) A licensee who is determined by the Board at renewal not to have completed the required number of hours of qualifying continuing education shall be required to make up any deficiency. A licensee who is required to make up a deficiency shall be ineligible for active status license renewal or conversion to active status pursuant to Section 80.1 until such time as documentation to support the required hours of continuing education for license renewal has been submitted and approved by the Board.

(l) A licensee's willful making of any false or misleading statement, in writing, regarding his/her continuing education shall constitute cause for disciplinary action pursuant to section 5100(g) of the Accountancy Act.

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

Reference: Section 5027, Business and Professions Code.

### **§ 89.1. Reports.**

(a) For purposes of monitoring and promoting compliance with applicable accounting principles and reporting standards, the Report Quality Monitoring Committee may require licensees, selected on the basis of a statistical sampling or upon referral from another committee of the Board, to supply copies of selected financial reports they have issued during the previous two years. This requirement applies to any licensee who had primary

responsibility for, and authority to sign, at least one financial report that was issued during the previous two years. The financial report or reports to be submitted shall be selected by the responding licensee and shall reflect the highest level of service rendered by such licensee during the period.

For purposes of this regulation, financial report shall mean

(1) the licensee's report issued as the result of an engagement covered by generally accepted auditing standards or government auditing standards (audit), or standards for accounting and review services (compilation or review), or attestation standards (attest engagements),

(2) accompanying financial statements or other client assertion,

(3) accompanying footnotes, and

(4) supplementary financial data, if any.

(b) Willful failure or refusal of a licensee to comply with the Board's written request for a copy of financial report(s), within 30 calendar days of the licensee's receipt of that request, constitutes a violation of Section 5100(g) of the Accountancy Act.

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

Reference: Sections 5010 and 5018, Business and Professions Code.

### **§ 90. Exceptions and Extensions.**

(a) A renewal applicant may be granted either an extension of time to complete continuing education requirements or an exception from continuing education requirements. Extensions or exceptions may be granted by the Board for the following causes:

(1) Reasons of health, certified by a medical doctor, which prevent compliance by the licensee;

(2) Service of the licensee on extended active duty with the Armed Forces of the United States;

(3) Other good cause.

(b) No extension or exception shall be made solely because of age.

(c) Willful failure of a licensee to complete applicable continuing education within a specified extension of time shall constitute cause for disciplinary action pursuant to section 5100(g) of the Accountancy Act.

(d) A renewal applicant who has met the requirement of Section 87(a) and becomes subject to continuing education pursuant to Section 87(c), (d) or (e) during the last 6 months of a two-year license renewal period shall be granted, upon request, an extension of time of up to 6 months in which to complete the continuing education required by Section 87(c), (d) or (e). Continuing education completed pursuant to this extension shall be part of the 80 hours of continuing education required under Section 87(a) for the next two-year renewal period. However, it shall not be part of the 24 hours of continuing education required under Section 87(c) or (d) or the 8 hours of continuing education required under Section 87(e) for the next two-year renewal period.



Note: Authority cited: Section 5010 and 5027, Business and Professions Code.  
Reference: Sections 5028 and 5100(g), Business and Professions Code.

### **§ 93. Unexpired Licenses.**

Permits issued under these rules expire at 12 midnight on the last day of the birth month of an odd numbered year if the licensee was born in an odd numbered year or of an even numbered year if the licensee was born in an even numbered year. Permit renewal is the responsibility of the licensee. To renew an unexpired permit, a certificate holder or registrant shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed and give evidence to the board that the continuing education provisions of these regulations have been complied with. Renewal of an unexpired permit shall continue the permit in effect for the two-year renewal cycle ending in the licensee's birth month unless otherwise provided for in these regulations or the California Accountancy Act.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 152.6, 5070.5 and 5134, Business and Professions Code.

### **§ 94. Failure to Comply.**

Failure to comply with these continuing education rules by a licensee engaged in public practice, as defined in Business and Professions Code Section 5051, constitutes cause for disciplinary action under Section 5100.

Note: Authority cited: Sections 5010, 5018, and 5027, Business and Professions Code.  
Reference: Sections 5026 and 5100, Business and Professions Code.

## **Article 12.5- Citations and Fines**

### **§ 95. Citations.**

(a) The executive officer of the board, in lieu of filing an accusation seeking the suspension or revocation of any permit or certificate or the censure of the holder of any such permit or certificate pursuant to Sections 5100, 5101 and 5156 of the Business and Professions Code, may issue a citation to any person as defined in Section 5035 of the Business and Professions Code who holds a permit or certificate from the board for a violation of any provision of the Accountancy Act or any regulation adopted by the board.

(b) In his or her discretion, the Board's executive officer may issue a citation under this section to a licensee for a violation of a term or condition contained in a decision placing that licensee on probation.

Note: Authority cited: Sections 125.9 and 5010, Business and Professions Code.  
Reference: Section 125.9, Business and Professions Code.

### **§ 95.1. Citation Format.**

Each citation:

- (a) shall be in writing;
- (b) shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated;
- (c) may contain an assessment of an administrative fine, an order of correction or abatement fixing a reasonable period of time for correction or abatement of the violation, or both an administrative fine and an order of correction or abatement;
- (d) shall be served in accordance with the provisions of Section 11505 (c) of the Government Code;
- (e) shall inform the cited person that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 calendar days of the issuance of the citation or assessment.

Note: Authority cited: Sections 125.9, 148 and 5010, Business and Professions Code.  
Reference: Sections 125.9 and 148, Business and Professions Code.

### **§ 95.2. Fines.**

The amount of the administrative fine assessed by the executive officer pursuant to this article shall not be less than \$100 or more than \$5,000 for each investigation.

Note: Authority cited: Sections 125.9, 148 and 5010, Business and Professions Code.  
Reference: Sections 125.9, 148 and 5100(g), Business and Professions Code.

### **§ 95.3. Citation Factors.**

In assessing an administrative fine or issuing an order of correction or abatement, the executive officer of the board shall give due consideration to the following factors:

- (a) The gravity of the violation.
- (b) The good or bad faith of the cited person or entity.
- (c) The history of previous violations.
- (d) Evidence that the violation was or was not willful.
- (e) The extent to which the cited person or entity has cooperated with the board's investigation.
- (f) The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation.

Note: Authority cited: Sections 125.9, 148 and 5010, Business and Professions Code.  
Reference: Sections 125.9, 148 and 5100(g), Business and Professions Code.

#### **§ 95.4. Failure to Comply with Citation.**

The failure of a licensee to comply with a citation containing an assessment of administrative fine, an order of correction or abatement or both an administrative fine and an order of correction or abatement after this citation is final and has been served in accordance with the provisions of Section 11505(c) of the Government Code shall constitute a ground for revocation or suspension of the license or permit.

Note: Authority cited: Sections 125.9, 148 and 5010, Business and Professions Code.  
Reference: Sections 125.9, 148 and 5100(g), Business and Professions Code.

#### **§ 95.5. Appeals.**

Any person or entity served with a citation pursuant to this Article and Sections 125.9 and 148 of the Business and Professions Code may contest the citation by appealing to the board in writing within 30 calendar days of the issuance of the citation. The cited person or entity may contest any or all of the following aspects of the citation:

- (a) The occurrence of a violation of the Accountancy Act or a regulation adopted by the board.
- (b) The reasonableness of the order of correction or abatement.
- (c) The period of time allowed for correction in the order of correction or abatement.
- (d) The amount of the administrative fine.

If the cited person or entity fails to notify the Board of his/her/its intent to contest the citation, the citation shall be deemed a final order of the Board and shall not be subject to administrative review. If a cited person or entity notifies the Board that he/she/it intends to contest a citation, the Board shall afford an opportunity for a hearing. The Board shall thereafter issue a decision, based on findings of fact, affirming, modifying or vacating the citation or penalty or both, or directing other appropriate relief. The proceedings under this Section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code (the California Administrative Procedure Act). The failure of a cited person or entity who has appealed to the Board to appear at the time and place of the hearing shall be deemed a withdrawal of his, her or its appeal, and the citation shall constitute a final order of the Board and shall not be subject to administrative review.

Note: Authority cited: Sections 125.9, 148 and 5010, Business and Professions Code.  
Reference: Sections 125.9 and 148, Business and Professions Code.

#### **§ 95.6. Unlicensed, Unregulated Practice.**

The executive officer of the board may issue citations, in accordance with Section 125.9 and 148 of the Business and Professions Code, against any person defined in Business and Professions Code Section 5035 who is acting in the capacity of a licensee under the jurisdiction of the Board. Each citation may contain an assessment of an administrative

fine, an order of abatement fixing a reasonable period of time for abatement of the violation, or both an administrative fine and an order of abatement. Administrative fines shall be in a range from \$100 to \$5,000 for each investigation. Any sanction authorized for activity under this section shall be separate from and in addition to any other civil or criminal remedies.

Note: Authority cited: Sections 125.9, 148 and 5010, Business and Professions Code.  
Reference: Sections 125.9, 148, 5050 and 5051, Business and Professions Code.

## **Article 13- Denial, Suspension, and Revocation of Certificates, Permits, or Licenses**

### **§ 98. Disciplinary Guidelines.**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines and Model Orders" (9th edition, 2013), which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation, for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Note: Authority cited: Sections 5010, 5018 and 5116, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 5018, 5096, 5096.5, 5096.12, 5100 and 5116-5116.6, Business and Professions Code; and Section 11425.50(e), Government Code.

#### **§ 98.1. Mediation Guidelines.**

The guidelines, entitled "California Board of Accountancy Mediation Guidelines" (July 17, 1998), which are hereby incorporated by reference, constitute the Board's guidelines for determining whether an enforcement matter under Article 6 of the Accountancy Act is appropriate for referral to mediation and for the procedures and the form of the mediation process.

Note: Authority cited: Sections 5010 and 5018, Business and Professions Code.  
Reference: Sections 5010 and 5018, Business and Professions Code; and Section 11420.10, Government Code.

### **§ 99. Substantial Relationship Criteria.**

For the purposes of denial, suspension, or revocation of a certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a certified public accountant or public accountant if to a substantial degree it

evidences present or potential unfitness of a certified public accountant or public accountant to perform the functions authorized by his or her certificate or permit in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

- (a) Dishonesty, fraud, or breach of fiduciary responsibility of any kind;
- (b) Fraud or deceit in obtaining a certified public accountant's certificate or a public accountant's permit under Chapter 1, Division III of the Business and Professions Code;
- (c) Gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052 of the code;
- (d) Violation of any of the provisions of Chapter 1, Division III of the Business and Professions Code or willful violation of any rule or regulation of the board.

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

Reference: Sections 481 and 5100, Business and Professions Code.

### **§ 99.1. Rehabilitation Criteria for Denials, Suspensions, Revocations, Restorations, Reduction of Penalty, Etc.**

When considering the denial of a certificate or permit under Section 480 of the Business and Professions Code, the suspension or revocation of a certificate or permit or restoration of a revoked certificate under Section 11522 of the Government Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for a certificate or permit, will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Criminal record and evidence of any act(s) committed subsequent to the act(s) or offense(s) under consideration which also could be considered as grounds for denial, suspension or revocation.
- (3) The time that has elapsed since commission of the act(s) or offense(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant or licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the applicant or licensee.

Note: Authority cited: Section 5010, Business and Professions Code. Reference: Sections 480, 481, 482, 486, 5100 and 5106, Business and Professions Code; and Section 1203.4, Penal Code.

## Course CPE Information

### Course Expiration Date

Per AICPA and NASBA Standards (S9-06), QAS Self-Study courses must include an expiration date that is *no longer than one year from the date of purchase or enrollment*.

### Field of Study

Regulatory Ethics. Some state boards may count credits under different categories—check with your state board for more information.

### Course Level

Basic.

### Prerequisites

There are no prerequisites.

### Advance Preparation

None.

### Course Description

The California Board of Accountancy is responsible for regulating the accounting profession in the public interest through its licensure and enforcement programs. In this course, we'll look at selected sections of the Accountancy Act and California Board of Accountancy Regulations, highlighting their effect on the practice of accounting while citing cases where misconduct has led to Board disciplinary action. Recent California Board of Accountancy disciplinary actions interspersed throughout this course serve as great examples of the types of situations and actions that can lead to discipline from the Board.

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### Publication/Revision Date

October 2018

## **Instructional Design**

This Self-Study course is designed to lead you through a learning process using instructional methods that will help you achieve the stated learning objectives. You will be provided with course objectives and presented with comprehensive information and facts demonstrated in exhibits and/or case studies. Review questions will allow you to check your understanding of the material, and a qualified assessment will test your mastery of the course.

Please familiarize yourself with the following instructional features to ensure your success in achieving the learning objectives.

### **Course CPE Information**

The preceding section, “Course CPE Information,” details important information regarding CPE. If you skipped over that section, please go back and review the information now to ensure you are prepared to complete this course successfully.

### **Table of Contents**

The table of contents allows you to quickly navigate to specific sections of the course.

### **Learning Objectives and Content**

Learning objectives clearly define the knowledge, skills, or abilities you will gain by completing the course. Throughout the course content, you will find various instructional methods to help you achieve the learning objectives, such as examples, case studies, charts, diagrams, and explanations. Please pay special attention to these instructional methods, as they will help you achieve the stated learning objectives.

### **Review Questions**

The review questions accompanying this course are designed to assist you in achieving the course learning objectives. The review section is not graded; do not submit it in place of your qualified assessment. While completing the review questions, it may be helpful to study any unfamiliar terms in the glossary in addition to course content. After completing the review questions, proceed to the review question answers and rationales.

### **Review Question Answers and Rationales**

Review question answer choices are accompanied by unique, logical reasoning (rationales) as to why an answer is correct or incorrect. Evaluative feedback to incorrect responses and reinforcement feedback to correct responses are both provided.

### **Glossary**

The glossary defines key terms. Please review the definition of any words you are not familiar with.

### **Index**

The index allows you to quickly locate key terms or concepts as you progress through the instructional material.

## Qualified Assessment

Qualified assessments measure (1) the extent to which the learning objectives have been met and (2) that you have gained the knowledge, skills, or abilities clearly defined by the learning objectives for each section of the course. Unless otherwise noted, you are required to earn a minimum score of 70% to pass a course. If you do not pass on your first attempt, please review the learning objectives, instructional materials, and review questions and answers before attempting to retake the qualified assessment to ensure all learning objectives have been successfully completed.

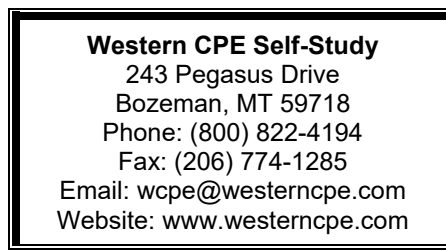
## Answer Sheet

Feel free to fill the Answer Sheet out as you go over the course. To enter your answers online, follow these steps:

1. Go to [www.westerncpe.com](http://www.westerncpe.com).
2. Log in with your username and password.
3. At the top right side of your screen, hover over “My Account” and click “My CPE.”
4. Click on the big orange button that says “View All Courses.”
5. Click on the appropriate course title.
6. Click on the blue wording that says “Qualified Assessment.”
7. Click on “Attempt assessment now.”

## Evaluation

Upon successful completion of your online assessment, we ask that you complete an online course evaluation. Your feedback is a vital component in our future course development.



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## **Introduction**

The California Board of Accountancy is responsible for regulating the accounting profession in the public interest through its licensure and enforcement programs. In this course, we will look at selected sections of the Accountancy Act and California Board of Accountancy Regulations, highlighting their effect on the practice of accounting and citing cases where misconduct has led to Board disciplinary action. It's important to note the recent California Board of Accountancy disciplinary actions throughout; they serve as great examples of the kinds of situations and actions that can lead to discipline from the Board. The full Accountancy Act and California Board of Accountancy Regulations are included as appendices.

## Section 1 – The Accountancy Act

### Learning Objectives

After completing this section of the course, you will be able to:

- Recognize the rules, regulations, and standards for professional conduct set forth by the California Board of Accountancy in the Accountancy Act, noting the requirements for continuing education, licensure, registration and renewal, peer review, audit documentation, disciplinary proceedings, penalties, and prohibited practices

### Introduction

Here are some selected sections from the Accountancy Act (current as of January 1, 2018). See the appendices at the end of the course for the full document.

### Article 1.5 - Continuing Education

#### 5026. Continuing Education

The Legislature has determined it is in the public interest to require that certified public accountants and public accountants licensed under provisions of this chapter comply with continuing education requirements adopted by the board as a prerequisite to the renewal of public accountancy licenses on and after December 31, 1974.

#### 5027. Continuing Education Regulations

The board shall by regulation prescribe, amend, or repeal rules including, but not limited to, all of the following:

- (a) A definition of basic requirements for continuing education.
- (b) A licensee who plans, directs, or approves any financial or compliance audit report on any governmental agency shall complete a minimum of 24 hours of qualifying continuing education in the area of governmental accounting and auditing or related subjects during the two- year license renewal period.
- (c) A licensee who provides audit, review, other attestation services, or issues compiled financial statement reports shall, during the two-year license renewal period, complete a minimum of 24 hours of qualifying continuing education in the area of accounting and auditing related to reporting on financial statements.
- (d) A licensee with a valid permit to practice public accountancy shall, within a six-year period, complete a continuing education course on the provisions of this chapter and the rules of professional conduct.
- (e) A licensee on inactive status shall complete the continuing education course required by subdivision (d) prior to reentering public practice.
- (f) A delineation of qualifying programs for maintaining competency.
- (g) A system of control and compliance reporting.

In exercising its power under this section for the interests of consumer protection, the board shall establish standards which will assure reasonable currency of knowledge as a basis for a high standard of practice by licensees. The standards shall be established in a manner to assure that a variety of alternatives are available to licensees to comply with the continuing education requirements for renewal of licenses and taking cognizance of specialized areas of practice.

### **5028. Exceptions from Continuing Education Requirements**

The board may, in accordance with the intent of this article, make exceptions from continuing education requirements for licensees not engaged in public practice, or for reasons of health, military service, or other good cause; provided, however, that if the licensee returns to the practice of public accounting he or she shall meet such continuing education requirements as the board may determine.

## **Article 3 - Application of Chapter**

### **5050. Practice Without Permit, Temporary Practice**

- (a) Except as provided in subdivisions (b) and (c) of this section, in subdivision (a) of Section 5054, and in Section 5096.12, no person shall engage in the practice of public accountancy in this state unless the person is the holder of a valid permit to practice public accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096).
- (b) Nothing in this chapter shall prohibit a certified public accountant, a public accountant, or a public accounting firm lawfully practicing in another state from temporarily practicing in this state incident to practice in another state, provided that an individual providing services under this subdivision may not solicit California clients, may not assert or imply that the individual is licensed to practice public accountancy in California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction, as defined in subdivision (c) of Section 19753 of the Revenue and Taxation Code. A firm providing services under this subdivision that is not registered to practice public accountancy in California may not solicit California clients, may not assert or imply that the firm is licensed to practice public accountancy in California, and may not engage in the development, implementation, or marketing to California consumers of any abusive tax avoidance transaction, as defined in subdivision (c) of Section 19753 of the Revenue and Taxation Code. This subdivision shall become inoperative on January 1, 2011.
- (c) Nothing in this chapter shall prohibit a person who holds a valid and current license, registration, certificate, permit, or other authority to practice public accountancy from a foreign country, and lawfully practicing therein, from temporarily engaging in the practice of public accountancy in this state incident to an engagement in that country, provided that:
  - (1) The temporary practice is regulated by the foreign country and is performed under accounting or auditing standards of that country.
  - (2) The person does not hold himself or herself out as being the holder of a valid California permit to practice public accountancy or the holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096).

**CBA Case**

**Cause for Discipline**

Accusation No. AC-2016-108 contains the following allegations:

Respondent’s license was cancelled in 1991 and has not been renewed. While his license was in a cancelled status, the respondent utilized and distributed business cards identifying himself as a Certified Public Accountant (CPA). Based on his representations, the respondent was hired as, and represented himself to be, the CPA for the California Speech Language Hearing Association (Association).

On or about August 4, 2012, respondent prepared a review engagement for the Association under the firm name of “XYZ Accountancy.”

On or about August 4, 2013, respondent prepared an additional review engagement for the Association that contained multiple deficiencies.

**Violations Charged**

Business and Professions Code, Division 3, Chapter 1, §§5050, 5055, 5062, 5076, and 5100 (g).  
California Code of Regulations, Title 16, Division 1, §§40, 41, and 58 .

**CBA Actions**

Revocation of CPA License, via default decision.

**Effective October 24, 2016<sup>1</sup>**

**5055. Title of Certified Public Accountant**

Any person who has received from the board a certificate of certified public accountant, or who is authorized to practice public accountancy in this state pursuant to Article 5.1 (commencing with Section 5096) may, subject to Section 5051, be styled and known as a “certified public accountant” and may also use the abbreviation “C.P.A.” No other person, except a firm registered under this chapter, shall assume or use that title, designation, or abbreviation or any other title, designation, sign, card, or device tending to indicate that the person using it is a certified public accountant.

**5058. Use of Confusing Titles or Designations Prohibited**

No person or partnership shall assume or use the title or designation “chartered accountant,” “certified accountant,” “enrolled accountant,” “registered accountant” or “licensed accountant,” or any other title or designation likely to be confused with “certified public accountant” or “public accountant,” or any of the abbreviations “C.A.,” “E.A.,” “R.A.,” or “L.A.,” or similar abbreviations likely to be confused with “C.P.A.” or “P.A.”; provided, that any person qualified as a certified public accountant under this chapter who also holds a comparable title granted under the laws of another country may use such title in conjunction with the title of “certified public accountant” or “C.P.A.” and provided, that any person enrolled to practice before the Internal Revenue Service and recognized as an enrolled agent may use the abbreviation “E.A.”

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<sup>1</sup> As published in the California Board of Accountancy *Newsletter*, Issue No. 83, Winter 2017. Actual name(s) of practitioner omitted.

**5058.1. Titles in Conjunction with Certified Public Accountant or Public Accountant**

A person or firm may not use any title or designation in connection with the designation “certified public accountant” or “public accountant” that is false or misleading.

The board may adopt regulations covering the use of titles or designations.

**5058.2. Inactive Designation**

The holder of an inactive license issued by the board pursuant to Section 462, when lawfully using the title “certified public accountant,” the CPA designation, or any other reference that would suggest that the person is licensed by the board on materials such as correspondence, Internet Web sites, business cards, nameplates, or name plaques, shall place the term “inactive” immediately after that designation.

**Article 3.5 - Standards of Professional Conduct**

**5060. Name of Firm**

- (a) No person or firm may practice public accountancy under any name which is false or misleading.
- (b) No person or firm may practice public accountancy under any name other than the name under which the person or firm holds a valid permit to practice issued by the board.
- (c) Notwithstanding subdivision (b), a sole proprietor may practice under a name other than the name set forth on his or her permit to practice, provided the name is registered by the board, is in good standing, and complies with the requirements of subdivision (a).
- (d) The board may adopt regulations to implement, interpret, and make specific the provisions of this section including, but not limited to, regulations designating particular forms of names as being false or misleading.

**5061. Commissions**

- (a) Except as expressly permitted by this section, a person engaged in the practice of public accountancy shall not: (1) pay a fee or commission to obtain a client or (2) accept a fee or commission for referring a client to the products or services of a third party.
- (b) A person engaged in the practice of public accountancy who is not performing any of the services set forth in subdivision (c) and who complies with the disclosure requirements of subdivision (d) may accept a fee or commission for providing a client with the products or services of a third party where the products or services of a third party are provided in conjunction with professional services provided to the client by the person engaged in the practice of public accountancy. Nothing in this subdivision shall be construed to permit the solicitation or acceptance of any fee or commission solely for the referral of a client to a third party.
- (c) A person engaged in the practice of public accountancy is prohibited from performing services for a client, or an officer or director of a client, or a client-sponsored retirement plan for a commission or from receiving a commission from a third party for providing the products or services of that third party to a client, or an officer or director of a client, or a client-sponsored retirement plan during the period in which the person also performs for that client, or officer or director of that client, or client-sponsored retirement plan, any



of the services listed below and during the period covered by any historical financial statements involved in those listed services:

- (1) An audit or review of a financial statement.
- (2) A compilation of a financial statement when that person expects, or reasonably might expect, that a third party will use the financial statement and the compilation report does not disclose a lack of independence.
- (3) An examination of prospective financial information.

For purposes of this subdivision, “director” means any person as defined under Section 164 of the Corporations Code and “officer” means any individual reported to a regulatory agency as an officer of a corporation. However, “director” and “officer” does not include a director or officer of a nonprofit corporation, or a corporation that meets the board's definition of small business, as specified by regulation.

- (d) A person engaged in the practice of public accountancy who is not prohibited from performing services for a commission, or from receiving a commission, and who is paid or expects to be paid a commission, shall disclose that fact to any client or entity to whom the person engaged in the practice of public accountancy recommends or refers a product or service to which the commission relates.
- (e) The board shall adopt regulations to implement, interpret, and make specific the provisions of this section including, but not limited to, regulations specifying the terms of any disclosure required by subdivision (d), the manner in which the disclosure shall be made, and other matters regarding the disclosure that the board deems appropriate. These regulations shall require, at a minimum, that a disclosure shall comply with all of the following:
  - (1) Be in writing and be clear and conspicuous.
  - (2) Be signed by the recipient of the product or service.
  - (3) State the amount of the commission or the basis on which it will be computed.
  - (4) Identify the source of the payment and the relationship between the source of the payment and the person receiving the payment.
  - (5) Be presented to the client at or prior to the time the recommendation of the product or service is made.
- (f) For purposes of this section, “fee” includes, but is not limited to, a commission, rebate, preference, discount, or other consideration, whether in the form of money or otherwise.
- (g) This section shall not prohibit payments for the purchase of any accounting practice or retirement payments to individuals presently or formerly engaged in the practice of public accountancy or payments to their heirs or estates.

### **5062. Report Conforming to Professional Standards**

A licensee shall issue a report which conforms to professional standards upon completion of a compilation, review, or audit of financial statements.

#### **5062.2. Restrictions on Accepting Employment with an Audit Client**

A licensee shall not accept employment with a publicly traded corporation or its affiliate within 12 months of the date of issuance of a financial statement report if both of the following criteria are met:

- (a) The licensee has participated in an audit engagement for the corporation and held responsibility, with respect to the audit engagement, requiring the licensee to exercise significant judgment in the audit process. Responsibilities meeting the requirements of this subdivision include, but are not limited to, positions, however titled, where the licensee was the person in charge of the fieldwork, up through positions where the licensee was a partner on the engagement.
- (b) The employment would permit the licensee to exercise significant authority over accounting or financial reporting, including authority over the controls related to those functions.

**Example:** Sharon is a partner in Quality CPAs and audits SleepCo, a public company, issuing an audit report on financial statements on December 31, 2017. On September 1, 2018, Sharon is offered employment and leaves Quality CPAs to take the job with SleepCo as their CFO. Sharon would be in violation of 5062.2 if she starts work prior to December 31, 2018, since she would exercise significant accounting and reporting authority in her new position.

### **5063. Reportable Events**

- (a) A licensee shall report to the board in writing of the occurrence of any of the following events occurring on or after January 1, 1997, within 30 days of the date the licensee has knowledge of these events:
  - (1) The conviction of the licensee of any of the following:
    - (A) A felony.
    - (B) Any crime related to the qualifications, functions, or duties of a public accountant or certified public accountant or to acts or activities in the course and scope of the practice of public accountancy.
    - (C) Any crime involving theft, embezzlement, misappropriation of funds or property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

As used in this section, a conviction includes the initial plea, verdict, or finding of guilt, pleas of no contest, or pronouncement of sentence by a trial court even though that conviction may not be final or sentence actually imposed until appeals are exhausted.

- (2) The cancellation, revocation, or suspension of a certificate, other authority to practice or refusal to renew a certificate or other authority to practice as a certified public accountant or a public accountant, by any other state or foreign country.
  - (3) The cancellation, revocation, or suspension of the right to practice as a certified public accountant or a public accountant before any governmental body or agency.
- (b) A licensee shall report to the board in writing the occurrence of any of the following events occurring on or after January 1, 2003, within 30 days of the date the licensee has knowledge of the events:
  - (1) Any restatement of a financial statement and related disclosures by a client audited by the licensee.
  - (2) Any civil action settlement or arbitration award against the licensee relating to the practice of public accountancy where the amount or value of the settlement or arbitration award is thirty thousand dollars (\$30,000) or greater and where the licensee is not insured for the full amount of the award.
  - (3) Any notice of the opening or initiation of a formal investigation of the licensee by the Securities and Exchange Commission or its designee.
  - (4) Any notice from the Securities and Exchange Commission to a licensee requesting a Wells Submission.
  - (5) Any notice of the opening or initiation of an investigation by the Public Company Accounting Oversight Board or its designee, as defined pursuant to subdivision (g).
- (c) A licensee shall report to the board in writing, within 30 days of the entry of the judgment, any judgment entered on or after January 1, 2003, against the licensee in any civil action alleging any of the following:
  - (1) Dishonesty, fraud, gross negligence, or negligence.
  - (2) Breach of fiduciary responsibility.
  - (3) Preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.
  - (4) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses, or other errors or omissions.
  - (5) Any actionable conduct by the licensee in the practice of public accountancy, the performance of bookkeeping operations, or other professional practice.
- (d) The report required by subdivisions (a), (b), and (c) shall be signed by the licensee and set forth the facts which constitute the reportable event. If the reportable event involves the action of an administrative agency or court, then the report shall set forth the title of the matter, court or agency name, docket number, and dates of occurrence of the reportable event.
- (e) A licensee shall promptly respond to oral or written inquiries from the board concerning the reportable events, including inquiries made by the board in conjunction with license renewal.

- (f) Nothing in this section shall impose a duty upon any licensee to report to the board the occurrence of any of the events set forth in subdivision (a), (b), or (c) either by or against any other licensee.
- (g) The board may adopt regulations to further define the reporting requirements of this section.

**CBA Case**

**Cause for Discipline**

Accusation No. AC-2016-114 contains the following allegations:

On or about March 18, 2014, in Monterey County Superior Court, the respondent was convicted of the following crimes:

Respondent was convicted of violating Government Code section 1090 (Conflict of Interest), a felony. From about January 8, 2010, through December 2, 2010, the respondent, while director of the Monterey County Water Resources Agency, became financially interested in a contract made by him in his official capacity, and by a body and board of which the respondent was a member.

Respondent was convicted of violating Penal Code section 487(a), grand theft by false pretenses, a felony. From November 17, 2008, through May 13, 2011, the respondent knowingly and designedly, by false or fraudulent representation or pretense defrauded another of money. Respondent was paid for work he claimed he performed but did not actually perform.

Respondent was convicted of violating Penal Code section 487 (a), grand theft by false pretenses, a felony. On or about July 19, 2010, the respondent knowingly and designedly, by false or fraudulent representation or pretense defrauded another of money. Respondent was paid for work he claimed he performed but did not actually perform. Respondent failed to report these convictions to the CBA within 30 days.

**Violations Charged**

Business and Professions Code, Division 1.5, Chapter 3, §490; Chapter 1, Division 3, Chapter 1, §§5063, 5100 (a), (g), (i), and (k).

**CBA Actions**

Revocation of CPA license, via default decision.

**Effective December 28, 2016<sup>2</sup>**

**5063.1. Reporting by Courts**

Within 10 days of entry of a conviction described in paragraph (1) of subdivision (a) of Section 5063 or a judgment described in subdivision (c) of Section 5063 by a court of this state, the court that rendered the conviction or judgment shall report that fact to the board and provide the board with a copy of the conviction or judgment and any orders or opinions of the court accompanying or ordering the conviction or judgment.

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<sup>2</sup> As published in the California Board of Accountancy *Newsletter*, Issue No. 83, Winter 2017. Actual name(s) of practitioner omitted.

### **5063.2. Reporting by Insurers**

Within 30 days of payment of all or any portion of any civil action settlement or arbitration award against a licensee of the board in which the amount or value of the settlement or arbitration award is thirty thousand dollars (\$30,000) or greater, any insurer or licensed surplus broker providing professional liability insurance to that licensee shall report to the board the name of the licensee, the amount or value of the settlement or arbitration award, the amount paid by the insurer or licensed surplus broker, and the identity of the payee.

**Note:** The Board has a reportable events form on their website that can be used to report actions in 5063, 5063.1, and 5063.2.

### **5063.3. Disclosure of Confidential Client Information Prohibited**

- (a) No confidential information obtained by a licensee, in his or her professional capacity, concerning a client or a prospective client shall be disclosed by the licensee without the written permission of the client or prospective client, except the following:
- (1) Disclosures made by a licensee in compliance with a subpoena or a summons enforceable by order of a court.
  - (2) Disclosures made by a licensee regarding a client or prospective client to the extent the licensee reasonably believes it is necessary to maintain or defend himself or herself in a legal proceeding initiated by the client or prospective client.
  - (3) Disclosures made by a licensee in response to an official inquiry from a federal or state government regulatory agency.
  - (4) Disclosures made by a licensee or a licensee's duly authorized representative to another licensee in connection with a proposed sale or merger of the licensee's professional practice.
  - (5) Disclosures made by a licensee to either of the following:
    - (A) Another licensee to the extent necessary for purposes of professional consultation.
    - (B) Organizations that provide professional standards review and ethics or quality control peer review.
  - (6) Disclosures made when specifically required by law.
  - (7) Disclosures specified by the board in regulation.
- (b) In the event that confidential client information may be disclosed to persons or entities outside the United States of America in connection with the services provided, the licensee shall inform the client in writing and obtain the client's written permission for the disclosure.

**Note:** Obviously, when dealing with a court subpoena or in legal proceedings brought on by a client, a practitioner may disclose the necessary information without obtaining permission from the client.

**5063.10. Restatements**

- (a) Any restatement of a financial statement that is included in any report filed with the United States Securities and Exchange Commission shall be exempt from the requirement described in paragraph (1) of subdivision (b) of Section 5063.
- (b) Nothing in this section shall be construed to require the reporting of any restatement of a financial statement that is not required to be submitted to the board pursuant to the regulations adopted by the board in effect on the date this section becomes operative.

**Article 4 - Applications, Registrations, Permits Generally**

**5070. Public Accountancy Permits and Certificates**

- (a) Permits to engage in the practice of public accountancy in this state shall be issued by the board only to holders of the certificate of certified public accountant issued under this chapter and to those partnerships, corporations, and other persons who, upon application approved by the board, are registered with the board under this chapter. Notwithstanding any other law, the board may register an entity organized and authorized to practice public accountancy under the laws of another state for the purpose of allowing that entity to satisfy the registration requirement set forth in Section 5096.12, if (1) the certified public accountants providing services in California qualify for the practice privilege, and (2) the entity satisfies all other requirements to register in this state, other than its form of legal organization.
- (b) All applicants for registration shall furnish satisfactory evidence that the applicant is entitled to registration and shall pay the fee as provided in Article 8 (commencing with Section 5130). Every partnership, corporation, and other person to whom a permit is issued shall, in addition to any other fee that may be payable, pay the initial permit fee provided in Article 8 (commencing with Section 5130).
- (c) The board may collect, but shall not require, a valid electronic mail address at the time of application for a certified public accountant license. In the interest of protecting an applicant's privacy, the electronic mail address shall not be considered a public record and shall not be disclosed pursuant to Section 27 or pursuant to a request under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), unless required pursuant to a court order by a court of competent jurisdiction.
- (d) Each partnership, corporation, and other person issued a permit by the board to practice as a certified public accountant or as a public accountant shall be furnished with a suitable certificate evidencing that registration.

**5070.5. Expiration of Permits; Renewal; Continuing Education Requirements**

- (a)
  - (1) A permit issued under this chapter to a certified public accountant or a public accountant expires at 12 midnight on the last day of the month of the legal birthday of the licensee during the second year of a two-year term if not renewed.
  - (2) To renew an unexpired permit, a permitholder shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed by this chapter, and give evidence satisfactory to the board that he or she has complied with the continuing education provisions of this chapter.

- (3) The board may collect, but shall not require, a valid electronic mail address on the renewal form described in paragraph (1). In the interest of protecting an applicant's privacy, the electronic mail address shall not be considered a public record and shall not be disclosed pursuant to Section 27 or pursuant to a request under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), unless required pursuant to a court order by a court of competent jurisdiction.
- (b) A permit to practice as an accountancy partnership or an accountancy corporation expires at 12 midnight on the last day of the month in which the permit was initially issued during the second year of a two-year term if not renewed. To renew an unexpired permit, the permitholder shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed by this chapter, and provide evidence satisfactory to the board that the accountancy partnership or accountancy corporation is in compliance with this chapter.

**Example:** Penelope is a CPA whose birthday is November 6, 1976. If she obtains her permit in January of 2017, it would expire November 30, 2018 unless she renews it.

#### **5070.6. Renewal of Expired Permits and Effective Date of Renewal of Such Permits**

Except as otherwise provided in this chapter, an expired permit may be renewed at any time within five years after its expiration upon the filing of an application for renewal on a form prescribed by the board, payment of all accrued and unpaid renewal fees, and providing evidence satisfactory to the board of compliance as required by Section 5070.5. If the permit is renewed after its expiration, its holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the accrued renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the permit shall continue in effect through the date provided in Section 5070.5 that next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

#### **5070.7. Failure to Renew Within Five Years; Reinstatement**

- (a) A permit that is not renewed within five years following its expiration may not be renewed, restored, or reinstated thereafter, and the certificate of the holder of the permit shall be canceled immediately upon expiration of the five-year period, except as provided in subdivision (e).
- (b) A partnership or corporation whose certificate has been canceled by operation of this section may obtain a new certificate and permit only if it again meets the requirements set forth in this chapter relating to registration and pays the registration fee and initial permit fee.
- (c) A certified public accountant whose certificate is canceled by operation of this section may apply for and obtain a new certificate and permit if the applicant:
  - (1) Is not subject to denial of a certificate and permit under Section 480.
  - (2) Pays all of the fees that would be required of him or her if he or she were then applying for the certificate and permit for the first time.

- (3) Takes and passes the examination which would be required of him or her if he or she were then applying for the certificate for the first time. The examination may be waived in any case in which the applicant establishes to the satisfaction of the board that, with due regard for the public interest, he or she is qualified to engage in practice as a certified public accountant.
- (d) The board may, by appropriate regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a certificate is issued without an examination under this section.
- (e) Revoked permits may not be renewed, but may be reinstated by the board, without regard to the length of time that has elapsed since the permit was revoked, and with conditions and restrictions as the board shall determine.

**Note:** In other words, don't wait five years to renew your permit unless you want to go through all the hassle you did when you started in accounting in California.

#### **5076. Peer Review**

- (a) In order to renew its registration in an active status or convert to an active status, a firm, as defined in Section 5035.1, shall have a peer review report of its accounting and auditing practice accepted by a board-recognized peer review program no less frequently than every three years.
- (b) For purposes of this article, the following definitions apply:
  - (1) "Peer review" means a study, appraisal, or review conducted in accordance with professional standards of the professional work of a firm, and may include an evaluation of other factors in accordance with the requirements specified by the board in regulations. The peer review report shall be issued by an individual who has a valid and current license, certificate, or permit to practice public accountancy from this state or another state and is unaffiliated with the firm being reviewed.
  - (2) "Accounting and auditing practice" includes any services that were performed in the prior three years using professional standards defined by the board in regulations.
- (c) The board shall adopt regulations as necessary to implement, interpret, and make specific the peer review requirements in this section, including, but not limited to, regulations specifying the requirements for board recognition of a peer review program, standards for administering a peer review, extensions of time for fulfilling the peer review requirement, exclusions from the peer review program, and document submission.
- (d) Nothing in this section shall prohibit the board from initiating an investigation and imposing discipline against a firm or licensee, either as the result of a complaint that alleges violations of statutes, rules, or regulations, or from information contained in a peer review report received by the board.
- (e) A firm issued a substandard peer review report, as defined by the board in regulation, shall submit a copy of that report to the board. The board shall establish in regulation the time period that a firm must submit the report to the board. This period shall not exceed



60 days from the time the report is accepted by a board-recognized peer review program provider to the date the report is submitted to the board.

- (f) (1) A board-recognized peer review program provider shall file a copy with the board of all substandard peer review reports issued to California-licensed firms. The board shall establish in regulation the time period that a board-recognized peer review program provider shall file the report with the board. This period shall not exceed 60 days from the time the report is accepted by a board-recognized peer review program provider to the date the report is filed with the board. These reports may be filed with the board electronically.
- (2) Nothing in this subdivision shall require a board-recognized peer review program provider, when administering peer reviews in another state, to violate the laws of that state.
- (g) The board shall, by January 1, 2010, define a substandard peer review report in regulation.
- (h) Any requirements imposed by a board-recognized peer review program on a firm in conjunction with the completion of a peer review shall be separate from, and in addition to, any action by the board pursuant to this section.
- (i) Any report of a substandard peer review submitted to the board in conjunction with this section shall be collected for investigatory purposes.
- (j) Nothing in this section affects the discovery or admissibility of evidence in a civil or criminal action.
- (k) Nothing in this section requires any firm to become a member of any professional organization.
- (l) A peer reviewer shall not disclose information concerning licensees or their clients obtained during a peer review, unless specifically authorized pursuant to this section, Section 5076.1, or regulations prescribed by the board.
- (m) (1) By January 1, 2015, the board shall provide the Legislature and Governor with a report regarding the peer review requirements of this section that includes, without limitation:
  - (A) The number of peer review reports completed to date and the number of reports which were submitted to the board as required in subdivision (e).
  - (B) The number of enforcement actions that were initiated as a result of an investigation conducted pursuant to subdivision (i).
  - (C) The number of firms that were recommended to take corrective actions to improve their practice through the mandatory peer review process and the number of firms that took corrective actions to improve their practice following recommendations resulting from the mandatory peer review process.
  - (D) The extent to which mandatory peer review of accounting firms enhances consumer protection.
  - (E) The cost impact on firms undergoing mandatory peer review and the cost impact of mandatory peer review on the firm's clients.
  - (F) A recommendation as to whether the mandatory peer review program should continue.

- (G) The extent to which mandatory peer review of small firms or sole practitioners that prepare nondisclosure compiled financial statements on an other comprehensive basis of accounting enhances consumer protection.
  - (H) The impact of peer review required by this section on small firms and sole practitioners that prepare nondisclosure compiled financial statements on an other comprehensive basis of accounting.
  - (I) The impact of peer review required by this section on small businesses, nonprofit corporations, and other entities that utilize small firms or sole practitioners for the purposes of nondisclosure compiled financial statements prepared on an other comprehensive basis of accounting.
  - (J) A recommendation as to whether the preparation of nondisclosure compiled financial statements on an other comprehensive basis of accounting should continue to be a part of the mandatory peer review program.
- (2) A report to the Legislature pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

**Note:** Effective January 1, 2014, firms performing services as mentioned above are required to report peer review at the time of license renewal.

**Note:** Peer reviews are dedicated to enhancing the quality of accounting, auditing, and attestation services and providing insights to help organizations provide high-quality accounting services.

### **CBA Case**

#### **Cause for Discipline**

Accusation No. AC-2016-61 contains the following allegations:

Through its investigation, the CBA received statements from and copies of work performed by respondent that confirmed that he performed services requiring that he undergo a peer review. For example, respondent provided a list of audits performed between March 25, 2010, and March 12, 2014, as well as a copy of an audit report that he completed, dated November 7, 2012. If the audit conducted on March 25, 2010, was the first service as defined in CBA Regulations Section 39 (a), respondent would have to have a peer review no later than September 25, 2012. By his failure to undergo a mandatory peer review within 18 months from the date of completion of the first audit, compilation, or review, respondent violated CBA Regulations Section 40.

Respondent has subjected his Certified Public Accountant Certificate to disciplinary action in that he failed to enroll in and obtain a peer review as required.

#### **Violations Charged**

Business and Professions Code, Division 3, Chapter 1, §§5076 and 5100 (g). California Code of Regulations, Title 16, Division 1, §§40, 41, and 45.

### **CBA Actions**

Revocation stayed with three years' probation, via stipulated settlement.

Respondent shall reimburse the CBA \$2,562.37 for its investigation and prosecution costs. The payment shall be made in quarterly payments (due with the quarterly written reports), the final payment being due six months before probation is scheduled to terminate.

During probation, respondent shall be prohibited from engaging in and performing audits, reviews, compilations, or other attestation services.

Respondent shall complete two hours of continuing education (CE) in ethics. The hours shall be completed within 180 days of the effective date of the CBA's decision and order and are in addition to the CE hours required for relicensing. Respondent shall complete a CBA-approved Regulatory Review course. The course shall be completed within 180 days of the effective date of the CBA's decision and order and is in addition to the CE requirements for relicensing. Respondent shall maintain an active license status.

After completion of probation, respondent shall be permanently prohibited from engaging in and performing audits, reviews, compilations, or other attestation services. This condition shall continue until such time, if ever, Respondent successfully petitions the CBA for the reinstatement of the ability to perform audits, reviews, compilations or other attestation services.

Other standard terms of probation.

**Effective December 28, 2016<sup>3</sup>**

### **5079. Nonlicensee Ownership of Firms**

- (a) Notwithstanding any other provision of this chapter, any firm lawfully engaged in the practice of public accountancy in this state may have owners who are not licensed as certified public accountants or public accountants if the following conditions are met:
- (1) Nonlicensee owners shall be natural persons or entities, such as partnerships, professional corporations, or others, provided that each ultimate beneficial owner of an equity interest in that entity shall be a natural person materially participating in the business conducted by the firm or an entity controlled by the firm.
  - (2) Nonlicensee owners shall materially participate in the business of the firm, or an entity controlled by the firm, and their ownership interest shall revert to the firm upon the cessation of any material participation.
  - (3) Licensees shall in the aggregate, directly or beneficially, comprise a majority of owners, except that firms with two owners may have one owner who is a nonlicensee.
  - (4) Licensees shall in the aggregate, directly or beneficially, hold more than half of the equity capital and possess majority voting rights.
  - (5) Nonlicensee owners shall not hold themselves out as certified public accountants or public accountants and each licensed firm shall disclose actual or potential involvement of nonlicensee owners in the services provided.

<sup>3</sup> As published in the California Board of Accountancy *Newsletter*, Issue No. 83, Winter 2017. Actual name(s) of practitioner omitted.

- (6) There shall be a certified public accountant or public accountant who has ultimate responsibility for each financial statement attest and compilation service engagement.
  - (7) Except as permitted by the board in the exercise of its discretion, a person may not become a nonlicensee owner or remain a nonlicensee owner if the person has done either of the following:
    - (A) Been convicted of any crime, an element of which is dishonesty or fraud, under the laws of any state, of the United States, or of any other jurisdiction.
    - (B) Had a professional license or the right to practice revoked or suspended for reasons other than nonpayment of dues or fees or has voluntarily surrendered a license or right to practice with disciplinary charges or a disciplinary investigation pending, and not reinstated by a licensing or regulatory agency of any state, or of the United States, including, but not limited to, the Securities and Exchange Commission or Public Company Accounting Oversight Board, or of any other jurisdiction.
- (b)
- (1) A nonlicensee owner of a licensed firm shall report to the board in writing of the occurrence of any of the events set forth in paragraph (7) of subdivision (a) within 30 days of the date the nonlicensee owner has knowledge of the event. A conviction includes the initial plea, verdict, or finding of guilt, pleas of no contest, or pronouncement of sentence by a trial court even though that conviction may not be final or sentence actually imposed until appeals are exhausted.
  - (2) A California nonlicensee owner of a licensed firm shall report to the board in writing the occurrence of any of the following events occurring on or after January 1, 2006, within 30 days of the date the California nonlicensee owner has knowledge of the events:
    - (A) Any notice of the opening or initiation of a formal investigation of the nonlicensee owner by the Securities and Exchange Commission or its designee, or any notice from the Securities and Exchange Commission to a nonlicensee owner requesting a Wells submission.
    - (B) Any notice of the opening or initiation of an investigation of the nonlicensee owner by the Public Company Accounting Oversight Board or its designee.
    - (C) Any notice of the opening or initiation of an investigation of the nonlicensee owner by another professional licensing agency.
  - (3) The report required by paragraphs (1) and (2) shall be signed by the nonlicensee owner and set forth the facts that constitute the reportable event. If the reportable event involves the action of an administrative agency or court, the report shall identify the name of the agency or court, the title of the matter, and the date of occurrence of the event.

- (4) Notwithstanding any other provision of law, reports received by the board pursuant to paragraph (2) shall not be disclosed to the public pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) other than (A) in the course of any disciplinary proceeding by the board after the filing of a formal accusation, (B) in the course of any legal action to which the board is a party, (C) in response to an official inquiry from a state or federal agency, (D) in response to a subpoena or summons enforceable by order of a court, or (E) when otherwise specifically required by law.
  - (5) Nothing in this subdivision shall impose a duty upon any licensee or nonlicensee owner to report to the board the occurrence of any events set forth in paragraph (7) of subdivision (a) or paragraph (2) of this subdivision either by or against any other nonlicensee owner.
- (c) For purposes of this section, the following definitions apply:
- (1) “Licensee” means a certified public accountant or public accountant in this state or a certified public accountant in good standing in another state.
  - (2) “Material participation” means an activity that is regular, continuous, and substantial.
- (d) All firms with nonlicensee owners shall certify at the time of registration and renewal that the firm is in compliance with this section.
- (e) The board shall adopt regulations to implement, interpret, or make specific this section.

**Note:** Like most states, California seeks to keep the controlling interest in accounting firms in the hands of licensees, in hope that this will make providing high-quality services of paramount importance over doing low-quality or substandard work in an effort to generate the most revenue.

## **Article 5.5 - Audit Documentation**

### **5097. Audit Documentation Requirements**

- (a) Audit documentation shall be a licensee’s records of the procedures applied, the tests performed, the information obtained, and the pertinent conclusions reached in an audit engagement. Audit documentation shall include, but is not limited to, programs, analyses, memoranda, letters of confirmation and representation, copies or abstracts of company documents, and schedules or commentaries prepared or obtained by the licensee.
- (b) Audit documentation shall contain sufficient documentation to enable a reviewer with relevant knowledge and experience, having no previous connection with the audit engagement, to understand the nature, timing, extent, and results of the auditing or other procedures performed, evidence obtained, and conclusions reached, and to determine the identity of the persons who performed and reviewed the work.
- (c) Failure of the audit documentation to document the procedures applied, tests performed, evidence obtained, and relevant conclusions reached in an engagement shall raise a presumption that the procedures were not applied, tests were not performed, information

was not obtained, and relevant conclusions were not reached. This presumption shall be a rebuttable presumption affecting the burden of proof relative to those portions of the audit that are not documented as required in subdivision (b). The burden may be met by a preponderance of the evidence.

- (d) Audit documentation shall be maintained by a licensee for the longer of the following:
  - (1) The minimum period of retention provided in subdivision (e).
  - (2) A period sufficient to satisfy professional standards and to comply with applicable laws and regulations.
- (e) Audit documentation shall be maintained for a minimum of seven years which shall be extended during the pendency of any board investigation, disciplinary action, or legal action involving the licensee or the licensee's firm. The board may adopt regulations to establish a different retention period for specific categories of audit documentation where the board finds that the nature of the documentation warrants it.
- (f) Licensees shall maintain a written documentation retention and destruction policy that shall set forth the licensee's practices and procedures complying with this article.

### **CBA Case**

#### **Cause for Discipline**

Accusation No. AC-2015-61 contains the following allegations:

Respondent has subjected his Certified Public Accountant (CPA) Certificate to disciplinary action for gross negligence in the performance of an audit of a 401(k) plan for the years ending December 31, 2010, and 2009, which departed extremely from professional standards.

Respondent has subjected his CPA Certificate to disciplinary action in that the documentation does not support the unqualified opinions rendered in the auditor's reports; and based on respondent's departures from professional standards, he did not perform the audit in accordance with generally accepted auditing standards.

Respondent has subjected his CPA Certificate to disciplinary action in that he did not comply with professional standards in the performance of his audits.

Respondent has subjected his CPA Certificate to disciplinary action in that his audit documentation did not contain sufficient documentation to enable a reviewer with relevant knowledge and experience, having no previous connection with the audit engagement, to understand the nature, timing, extent, and results of procedures performed, evidence obtained, conclusions reached, and to determine the identity of the persons who performed and reviewed the work.

Respondent has subjected his CPA Certificate to disciplinary action in that he failed to obtain a peer review and report the results to the CBA.

Respondent has subjected his CPA Certificate to disciplinary action in that he willfully violated professional standards, including the Accountancy Act and CBA Regulations.

#### **Violations Charged**

Business and Professions Code, Division 3, Chapter 1, §§5062, 5076, 5097, 5100 (c), (e), and (g). California Code of Regulations, Title 16, Division 1, §§40, 45, 58, and 68.2.

### **CBA Actions**

Revocation stayed with three years' probation, via stipulated settlement.

Respondent shall reimburse the CBA \$5,000 for its investigation and prosecution costs. The payment shall be made within six months of the date the CBA's decision is final.

Respondent shall complete four hours of continuing education (CE) in ethics. The hours shall be completed within 180 days of the effective date of the CBA's decision and order and are in addition to the CE hours required for relicensing.

Respondent shall complete a CBA-approved Regulatory Review course. The course shall be completed within 180 days of the effective date of the CBA's decision and order and is in addition to the CE requirements for relicensing.

During the period of probation, all compilation reports and work papers shall be subject to peer review by a Board-recognized peer review program provider pursuant to Business and Professions Code section 5076 and California Code of Regulations, Title 16, Division 1, Article 6, at respondent's expense. The specific engagements to be reviewed shall be at the discretion of the peer reviewer. Within 45 days of the peer review being accepted by a Board-recognized peer review program provider, respondent shall submit to the CBA a copy of the peer review report, including any materials documenting the prescription of remedial or corrective actions imposed by the Board-recognized peer review program provider. Respondent shall also submit, if available, any materials documenting completion of any or all of the prescribed remedial or corrective actions.

Respondent shall maintain an active license status. During probation, respondent shall not engage in and shall be prohibited from performing any audits, reviews, or other attestation services.

After completion of probation, respondent shall be permanently prohibited from engaging in and performing audits, reviews, or other attestation services. This condition shall continue until such time, if ever, respondent successfully petitions the CBA for the reinstatement of the ability to perform audits, reviews, or other attestation services.

Other standard terms of probation.

**Effective December 28, 2016<sup>4</sup>**

### **5098. Audit Documentation Regulations**

The board may adopt regulations to implement, interpret, and make specific provisions relating to the following:

- (a) Requirements for licensees maintaining an audit documentation retention policy and procedures for review and approval of audit documentation destruction.
- (b) Procedures for the identification, dating, and retention of audit documentation.

**Note:** It might be wise to have a firm document retention policy so that the retention period (at a minimum) can be maintained. A policy about destroying records would also be advisable.

<sup>4</sup> As published in the California Board of Accountancy *Newsletter*, Issue No. 83, Winter 2017. Actual name(s) of practitioner omitted.

## Article 6 - Disciplinary Proceedings

### 5100. Discipline in General

After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

- (a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.
- (b) A violation of Section 478, 498, or 499 dealing with false statements or omissions in the application for a license, in obtaining a certificate as a certified public accountant, in obtaining registration under this chapter, or in obtaining a permit to practice public accountancy under this chapter.
- (c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.
- (d) Cancellation, revocation, or suspension of a certificate or other authority to practice as a certified public accountant or a public accountant, refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.
- (e) Violation of Section 5097.
- (f) Violation of Section 5120.
- (g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.
- (h) Suspension or revocation of the right to practice before any governmental body or agency.
- (i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.
- (j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.
- (k) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.
- (l) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation.
- (m) Unlawfully engaging in the practice of public accountancy in another state.



## **CBA Case**

### **Cause for Discipline**

Accusation AC-2016-117 contains the following allegations:

Respondent prepared a deficient audit report for the year ended December 31, 2012, dated March 19, 2014, which the respondent prepared for a child care and development center (Center) which was party to a government contract with the California Department of Education (CDE). The CDE required the audit pursuant to that contract.

The required audit was, and is, subject to the Generally Accepted Government Auditing Standards (GAGAS), also known as the Yellow Book (January 2007 revision), and to the requirements set forth in the CDE's Audit Guide. The respondent failed to respond to multiple inquiries from the CBA regarding the audit and other compliance issues.

The CBA investigation concluded that the audit was not performed in compliance with professional standards. The CBA also previously issued the respondent Citation No. CT-2014-973 on November 12, 2013, for failure to report peer review by July 1, 2013, as required. To date, the respondent has still not complied with the corrective portion of the citation by submitting the required Form PR-1. As of September 27, 2016, the respondent was not enrolled in any peer review program.

Title 16, California Code of Regulations section 87 requires licensees to complete a minimum of 20 hours of continuing professional education (CPE) in each year of a license renewal period. However, in his most recent renewal application, respondent reported that he took no CPE during either year of the license renewal period ended on July 31, 2012. Instead, all reported CPE was taken between January 8, 2013, and April 28, 2013.

On or about August 1, 2012, the respondent allowed his license to expire for failure to pay the requisite renewal fees and/or submit the requisite declaration of CPE compliance. Respondent did not renew his license until on or about April 29, 2013—nine months after the expiration date. Therefore, he practiced public accounting without a license for the period of August 1, 2012, to April 29, 2013.

Respondent's license expired again on August 1, 2014, since he failed to submit any renewal application. Respondent has not renewed his license to date. Therefore, he has been practicing public accounting without a license from August 1, 2014, through the current date. The respondent admitted to the CBA that he was engaged in other tax matters during this period.

### **Violations Charged**

Business and Professions Code, Division 3, Chapter 1, §§5050, 5062, 5076, and 5100 (c) and (g).  
California Code of Regulations, Title 16, Division 1, §§40, 41, 45, 52, 58, 87, and 95.4.

### **CBA Actions**

Revocation of CPA License, via default decision.

**Effective December 28, 2016<sup>5</sup>**

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<sup>5</sup> As published in the California Board of Accountancy *Newsletter*, Issue No. 83, Winter 2017. Actual name(s) of practitioner omitted.

### **5101. Discipline of Partnership**

After notice and hearing the board shall revoke the registration and permit to practice of a partnership if at any time it does not have all the qualifications prescribed by the section of this chapter under which it qualified for registration. After notice and hearing the board may revoke, suspend or refuse to renew the permit to practice of a partnership or may censure the holder of such permit for any of the causes enumerated in Section 5100 and for the following additional causes:

- (a) The revocation or suspension of the certificate or registration or the revocation or suspension of or refusal to renew the permit to practice of any partner.
- (b) The cancellation, revocation, or suspension of certificate or other authority to practice or refusal to renew the certificate or other authority of the partnership of any partner thereof to practice public accountancy in any other state.

### **5103. Investigations**

- (a) Notwithstanding any other provision of law, the board may inquire into any alleged violation of this chapter or any other state or federal law, regulation, or rule relevant to the practice of accountancy.
- (b) The board, or its executive officer pursuant to a delegation of authority from the board, is authorized to perform the following functions:
  - (1) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of licensees, as directed by the board, or as directed by the executive officer pursuant to a delegation of authority from the board.
  - (2) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving any violation or alleged violation of this chapter by licensees, as directed by the board, or as directed by the executive officer pursuant to a delegation of authority from the board.

#### **5103.5. Notice of Formal Accusations**

- (a) The board shall post on its Internet Web site, in an easily marked and identifiable location, notice of all formal accusations. The notice of any formal accusation shall contain a link to where a person may request and have sent to him or her a copy of the formal accusation, and the basis for the accusation and alleged violations filed by the board against a licensee.
- (b) The link to where a person may request and have sent to him or her a copy of the formal accusation shall be clearly and conspicuously located on the same Internet Web site page on which the notice is posted and shall authorize a person to request and receive the information described in subdivision (a) by regular mail or electronic mail.
- (c) The board shall develop a statement that informs any person requesting a copy of a formal accusation and any person receiving a copy of a formal accusation that any allegations contained in the accusation are not a final determination of wrongdoing and are subject to adjudication and final review by the board pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of

Title 2 of the Government Code). This statement shall be provided to a person requesting and receiving a copy of a formal accusation in a manner to be determined by the board.

**Note:** Formal accusations can be found at <http://www.dca.ca.gov/cba/discipline/accus.shtml>

#### **5104. Relinquishment of Certificate or Permit**

Any certified public accountant or public accountant whose certificate, registration, or permit has been revoked or suspended shall upon request of the board relinquish his or her certificate or permit. However, upon the expiration of the period of suspension, the board shall immediately return any suspended certificate or permit which has been relinquished.

#### **5105. Delinquency in Payment of Renewal Fee**

Any certified public accountant or public accountant who is delinquent in the payment of his renewal fee shall upon request of the board relinquish his certificate and permit; provided, however, the board shall reissue any certificate and permit which has been relinquished for nonpayment of renewal fees if the permit is renewed as provided in Section 5070.6.

#### **5106. Conviction Defined**

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The record of the conviction shall be conclusive evidence thereof. The board may order the certificate or permit suspended or revoked or may decline to issue a certificate or permit when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

#### **5107. Payment of Disciplinary Costs; Conditional Renewal**

- (a) The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorney's fees. The board shall not recover costs incurred at the administrative hearing.
- (b) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the executive officer, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.
- (c) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested to do so by the executive officer pursuant to subdivision (a). Costs are payable 120 days after the board's decision is final, unless otherwise provided for by the administrative law judge or if the time for payment is extended by the board.
- (d) The finding of the administrative law judge with regard to cost shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award or

remand to the administrative law judge where the proposed decision fails to make a finding on costs requested by the executive officer pursuant to subdivision (a).

- (e) The administrative law judge may make a further finding that the amount of reasonable costs awarded shall be reduced or eliminated upon a finding that respondent has demonstrated that he or she cannot pay all or a portion of the costs or that payment of the costs would cause an unreasonable financial hardship which cannot be remedied through a payment plan.
- (f) When an administrative law judge makes a finding that costs be waived or reduced, he or she shall set forth the factual basis for his or her finding in the proposed decision.
- (g) Where an order for recovery of costs is made and timely payment is not made as directed by the board's decision, the board may enforce the order for payment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any holder of a permit or certificate directed to pay costs.
- (h) In a judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms of payment.
- (i) All costs recovered under this section shall be deposited in the Accountancy Fund.
- (j) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the permit or certificate of a holder who has failed to pay all of the costs ordered under this section.
  - (2) Notwithstanding paragraph (1) or paragraph (2) of subdivision (g) of Section 125.3, the board may, in its discretion, conditionally renew or reinstate for a maximum of three years the permit or certificate of a holder who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that three-year period for those unpaid costs.
- (k) Nothing in this section shall preclude the board from seeking recovery of costs in an order or decision made pursuant to an agreement entered into between the board and the holder of a permit or certificate.
- (l) (1) Costs may not be recovered under this section as a result of a citation issued pursuant to Section 125.9 and its implementing language if the licensee complies with the citation.
  - (2) The Legislature hereby finds and declares that this subdivision is declaratory of existing law.

### **5108. Subpoenas**

In connection with any investigation or action authorized by this chapter, the board may issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony pertinent or material to its inquiry, investigation, hearing, proceeding, or action conducted in any part of the state.

### **5109. Jurisdiction Over Expired, Cancelled, Forfeited, Suspended, or Surrendered License**

The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee or to render a decision suspending or revoking the license.

### **5115. Petitions for Reinstatement or Reduction of Penalty**

- (a) A person whose license has been revoked or surrendered may petition the board for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition, unless a longer period, not to exceed three years, is specified by the board in any decision revoking the license, accepting the surrender of the license, or denying reinstatement of the license.
- (b) A person whose license has not been revoked or surrendered but who has been disciplined by imposition of a suspension or otherwise disciplined may petition the board for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision.
- (c) The board shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the board itself. The board itself shall rule on the petition, and the decision shall include the reasons therefor and any terms and conditions that the board reasonably deems appropriate to impose as a condition of reinstatement or reduction of penalty, including, but not limited to, restrictions on the petitioner's scope of professional practice.

## **Article 6.5 - Administrative Penalties**

### **5116. Administrative Penalties General Provisions**

- (a) The board, after appropriate notice and an opportunity for hearing, may order any licensee or applicant for licensure or examination to pay an administrative penalty as provided in this article as part of any disciplinary proceeding or other proceeding provided for in this chapter.
- (b) The board may assess administrative penalties under one or more provisions of this article. However, the total administrative penalty to be paid by the licensee shall not exceed the amount of the highest administrative penalty authorized by this article.
- (c) The board shall adopt regulations to establish criteria for assessing administrative penalties based upon factors, including, but not limited to, actual and potential consumer harm, nature and severity of the violation, the role of the person in the violation, the person's ability to pay the administrative penalty, and the level of administrative penalty necessary to deter future violations of this chapter.
- (d) Administrative penalties assessed under this article shall be in addition to any other penalties or sanctions imposed on the licensee or other person, including, but not limited to, license revocation, license suspension, denial of the application for licensure, denial of the petition for reinstatement, or denial of admission to the licensing examination. Payment of these administrative penalties may be included as a condition of probation when probation is ordered.
- (e) All administrative penalties collected under this article shall be deposited in the Accountancy Fund.

**5116.1. Administrative Penalties – All Accountancy Act Violations**

In accordance with Section 5116 and applicable regulations, except as provided in Section 5116.2, any licensee who violates any provision of this chapter may be assessed an administrative penalty of not more than five thousand dollars (\$5,000) for the first violation and not more than ten thousand dollars (\$10,000) for each subsequent violation.

**5116.2. Administrative Penalties – Specific Accountancy Act Violations**

In accordance with Section 5116 and applicable regulations, any licensee who violates subdivision (a), (c), (i), (j) or (k) of Section 5100 may be assessed an administrative penalty of not more than one million dollars (\$1,000,000) for the first violation and not more than five million dollars (\$5,000,000) for any subsequent violation, except that a licensee who is a natural person may be assessed an administrative penalty of not more than fifty thousand dollars (\$50,000) for the first violation and not more than one hundred thousand dollars (\$100,000) for any subsequent violation.

**Article 7 - Prohibitions and Offenses Against the Chapter Generally**

**5120. Violations as Misdemeanor**

Any person who violates Article 3 (commencing with Section 5050) is guilty of a misdemeanor, punishable by imprisonment for not more than six months, or by a fine of not more than one thousand dollars (\$1,000), or both.

Whenever the board has reason to believe that any person is liable to punishment under this article, the board or with its approval the enforcement advisory committee, may certify the facts to the appropriate enforcement officer of the city or county where the alleged violation had taken place and the officer may cause appropriate proceedings to be brought.

**5121. Evidence of Violation**

The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof or the words "public accountant" or any abbreviation thereof shall be prima facie evidence in any prosecution, proceeding or hearing brought under this article that the person whose name is so displayed caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device. Any such display or uttering shall be prima facie evidence that the person whose name is so displayed holds himself or herself out as a certified public accountant, or a public accountant holding a permit to practice public accountancy in this State under the provisions of this chapter. In any prosecution or hearing under this chapter, evidence of the commission of a single act prohibited by this chapter shall be sufficient to justify a conviction without evidence of a general course of conduct.

**5122. Injunctions**

Whenever in the judgment of the board, or with its approval the enforcement advisory committee, any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, an offense against this chapter, the board may make application to the appropriate court for an order enjoining the acts or practices, and upon showing by the board that the person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or other order that may be appropriate shall be granted by the court.

## Section 1 Review Questions

The review questions accompanying this course are designed to assist you in achieving the course learning objectives. The review section is not graded; do not submit it in place of your qualified assessment. While completing the review questions, it may be helpful to study any unfamiliar terms in the glossary in addition to course content. After completing the review questions, proceed to the review question answers and rationales.

1. Who may use the title chartered accountant?
  - a. Only CPAs licensed in California.
  - b. Only CPAs enrolled to practice before the IRS.
  - c. Any person enrolled to practice before the IRS.
  - d. Any person qualified as a CPA who also holds the title chartered accountant granted under the laws of another country.
  
2. What is required when a firm receives a substandard peer review report?
  - a. A copy of the report must be sent by registered mail to the Board within 20 days.
  - b. A copy of the report must be filed with the Board within 20 days.
  - c. The partners of the firm must file with the Board a plan of remedial actions.
  - d. A copy of the report may be filed electronically with the Board within 60 days.
  
3. Which of the following is true regarding payment of costs for disciplinary actions?
  - a. Administrative hearing costs are not recoverable.
  - b. Reasonable costs must be paid within 90 days.
  - c. The Board determines the amount that must be paid.
  - d. Costs recovered must be deposited into the general fund.
  
4. The Board may assess administrative penalties up to:
  - a. \$5,000.
  - b. \$50,000.
  - c. \$100,000.
  - d. \$5,000,000.



## Section 2 – California Board of Accountancy Regulations

### Learning Objectives

After completing this section of the course, you will be able to:

- Recognize the rules contained in the California Board of Accountancy Regulations including requirements for examination, practice privileges, registration, peer review, professional conduct, continuing education, and the denial, suspension and revocation of certificates, permits, or licenses

### Introduction

Here are some selected sections from the California Board of Accountancy Regulations (current as of April 1, 2018). See the appendices at the end of the course for the full document.

### Article 1 - General

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

##### (a) Address Notification—Individual Licensees

- (1) Each licensee shall notify the Board of any change in his or her address of record within 30 days after the change. The address of record is public information. If the address of record is a post office box or mail drop, the change of address notification shall include the street address of either the licensee's primary place of employment or his or her residence.
- (2) For purposes of this section, “licensee” includes any holder of an active, inactive, suspended, or expired certified public accountant license or public accountant license issued by the Board which is not canceled or revoked.
- (3) All notification required under this subsection shall be in writing and shall be signed by the licensee.

##### (b) Notification of Change of Address—Licensed Firm

- (1) Each licensed firm shall notify the Board of any change in its address of record within 30 days after the change. The address of record is public information. If the address of record is a post office box or mail drop, the change of address notification shall include the street address of the firm’s principal office.
- (2) For purposes of this section “licensed firm” includes any partnership or professional corporation licensed by the Board to practice public accountancy even if the license is suspended or expired, provided the license is not canceled or revoked.
- (3) All notifications required under this subsection shall be in writing and shall be signed by a licensed partner or licensed shareholder of the firm.

#### §5. Observance of Rules.

A licensee of the State Board of Accountancy engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code or engaged in an occupation in which the licensee renders services of the type performed by certified public accountants or public accountants or renders other professional services shall observe and is subject to rules and regulations of the State Board of Accountancy in the conduct of such activity. For purposes of

Section 5, the term “activity” includes but is not limited to bookkeeping, financial planning, investment planning, tax services, and management services.

## **Article 2 - Examinations**

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

- (a) In order to meet the experience requirement of Section 5092 or Section 5093 of the Business and Professions Code, experience must be supervised by a person holding a valid, active license or comparable authority to practice public accounting as specified in subdivision (d) of Section 5092 or subdivision (d) of Section 5093. Supervised experience means that the applicant's supervisor shall have reviewed and evaluated the applicant's qualifying work, pursuant to subsection (b) on a routine and recurring basis and shall have authority and oversight over the applicant.
- (1) Experience shall be verified by the person supervising the experience and by a second person with a higher level of responsibility in the public accounting firm, private industry company, or governmental agency. If the experience is obtained in public accounting, the second person signing the verification shall be an owner of the public accounting firm holding a valid license or comparable authority to practice public accounting. If the owner of the public accounting firm or private industry company signing the verification is also the person supervising the experience, no second signature is required.
  - (2) Experience may not be supervised by a licensee who provides public accounting services to the applicant's employer.
  - (3) (A) All verifications shall be submitted to the Board on Form 11A-29 (5/11) for public accounting experience or Form 11A-29A (5/11) for private industry and governmental accounting experience, which are hereby incorporated by reference, and shall be signed under penalty of perjury.  
(B) If the applicant is unable to obtain the verifications required in subsection (a)(3)(A), the Board may approve other forms of verification if they contain the information as required in subsection (a)(3)(A).
- (b) The experience required by Section 5092 or Section 5093 involves providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. Qualifying experience may be gained through employment in public accounting, private industry, or government. Experience acquired in academia is considered qualifying if the requirements of Section 12.1 are met.
- (c) The experience required by Section 5092 or Section 5093 of the Business and Professions Code may be obtained in full-time or part-time employment provided the total experience completed by the applicant is the equivalent of at least two years of full-time employment for an applicant qualifying under Section 5092 or at least one year of full-time employment for an applicant qualifying under Section 5093. In evaluating an applicant's experience, 170 hours of part-time employment shall be considered equivalent to one month of full-time employment.

- (d) An applicant who is applying with experience obtained five (5) or more years prior to application and who has not passed the Uniform CPA Examination during this five-year period shall be required to complete 80 hours of continuing education, which shall meet the following requirements:
  - (1) The 80 hours must be completed in the two years preceding approval of the application by the Board.
  - (2) All 80 hours must meet the requirements as described in Section 87(a)(2)-(4) and Section 88.
  - (3) Certificates of completion must be submitted to the Board and shall contain a verification certified by a program provider representative such as a signature or seal. The certificate of completion must also delineate the subject areas, as described in Section 87(a)(2) and (3), for which the applicant may claim credit.

**§12.1 Experience in Academia.**

- (a) Pursuant to Business and Professions Code section 5093(d)(3), experience in academia qualifies as general accounting experience for certified public accountant licensure if it meets the requirements provided in this section.
- (b) In evaluating an applicant's experience in academia, 48 semester units of instruction, or its equivalent in quarter units, shall be considered equivalent to one year of general accounting experience.
- (c) Experience in academia shall be qualifying when the applicant is the instructor for a course meeting the following requirements:
  - (1) The course was in a subject listed in section 9.2(b); and
  - (2) The course was taught at an accredited institution as described in Business and Professions Code section 5094(b).
- (d)
  - (1) All experience must be verified by the dean, head, or chair of the applicant's department who has authority and oversight over the applicant. The verification shall be submitted to the Board on Form 11A-29B (12/14) entitled "Certificate of Experience in Academia," which is hereby incorporated by reference.
  - (2) If the applicant is unable to obtain the verifications required in subsection (d)(1), the Board may approve other forms of verification if they contain the information as required in subsection (d)(1).
- (e)
  - (1) Experience in academia may be combined with other general accounting experience meeting the requirements of Section 12 at a ratio of four semester units, or its equivalent in quarter units, to one month of general accounting experience.
  - (2) Notwithstanding subdivision (e)(1), the total qualifying general accounting experience needed for licensure shall not be obtained in less than 12 calendar months.
- (f) An applicant who is applying with experience obtained five (5) or more years prior to application and who has not passed the Uniform CPA Examination during this five-year period shall be required to complete 80 hours of continuing education, which shall meet the following requirements:
  - (1) The 80 hours must be completed in the two years preceding approval of the application by the Board.

- (2) All 80 hours must meet the requirements as described in Section 87(a)(2-4) and Section 88.
- (3) Certificates of completion must be submitted to the Board and shall contain a verification certified by a program provider representative such as a signature or seal. The certificate of completion must also delineate the subject areas, as described in Section 87(a)(2) and (3), for which the applicant may claim credit.

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

- (a) To be authorized to sign reports on attest engagements pursuant to Business and Professions Code Section 5095, an applicant for a California Certified Public Accountant license pursuant to Business and Professions Code Sections 5087, 5092, or 5093 or holder of an unexpired, valid, active California Certified Public Accountant license issued pursuant to Business and Professions Code Sections 5087, 5092, or 5093 shall show to the satisfaction of the Board that he or she meets the requirements of this section and Business and Professions Code Section 5095.
  - (1) Some or all of the experience required by Section 5095 and this section may be completed prior to issuance of the California Certified Public Accountant license. Any experience that would be qualifying for purposes of Section 5095 and this section may also serve as qualifying experience for purposes of Sections 5092 or 5093. To be qualifying for purposes of Section 5095 and this section, any experience obtained after issuance of the California Certified Public Accountant license must be obtained while the license is held in active status.
  - (2) A holder of an active California Certified Public Accountant license may commence signing reports on attest engagements upon receipt of notification from the Board that he or she has met the requirements of this section and Business and Professions Code Section 5095. A holder of an inactive California Certified Public Accountant license may apply under this section, but must convert the license to active status before commencing to sign reports on attest engagements.
  - (3) An applicant for the California Certified Public Accountant license who has met the requirements of this section and Business and Professions Code Section 5095 may commence signing reports on attest engagements upon license issuance.
- (b) In order to meet the attest experience requirements of Section 5095 an applicant for or holder of a California Certified Public Accountant license shall show to the satisfaction of the Board that the applicant has completed a minimum of 500 hours of attest experience. This experience shall include all of the following:
  - (1) Experience in the planning of the audit including the selection of the procedures to be performed.
  - (2) Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions included in financial statements.
  - (3) Experience in the preparation of working papers in connection with the various elements of (1) and (2) above.
  - (4) Experience in the preparation of written explanations and comments on the work performed and its findings.

- (5) Experience in the preparation of and reporting on full disclosure financial statements.
- (c) Qualifying experience may be gained through employment in public accounting, private industry, or government. Experience acquired in academia is not qualifying.
- (d) In order to be qualifying, experience obtained pursuant to Section 5095 of the Business and Professions Code must be supervised by a person holding a valid active license or comparable authority to provide attest services as specified in subdivision (b) of Business and Professions Code Section 5095. Supervised experience means that the applicant's supervisor shall have reviewed and evaluated the applicant's qualifying work, pursuant to subsection (b) on a routine and recurring basis and shall have authority and oversight over the applicant.
  - (1) Experience shall be verified by the person supervising the experience and by a second person with a higher level of responsibility in the public accounting firm, private industry company, or governmental agency. If the experience is obtained in public accounting, the second person signing the verification shall be an owner of the public accounting firm holding a valid license or comparable authority to practice public accounting. If the owner of the public accounting firm or private industry company signing the verification is also the person supervising the experience, no second signature is required.
  - (2) Experience may not be supervised by a licensee who provides public accounting services to the applicant's employer.
  - (3) (A) All verifications shall be submitted to the Board on Form 11A-6A (5/11) for public accounting experience or on Form 11A-6 (5/11) for private industry or governmental accounting experience, which are hereby incorporated by reference, and shall be signed under penalty of perjury.  
  
(B) If the applicant is unable to obtain the verifications required in subsection (d)(3)(A), the Board may approve other forms of verification if they contain the information as required in subsection (d)(3)(A).
- (e) In order to demonstrate the completion of qualifying experience, an applicant for or holder of a California Certified Public Accountant license may be required to appear before the Qualifications Committee to present work papers, or other evidence, substantiating that his or her experience meets the requirements of Section 5095 of the Business and Professions Code and of subsection (b) of this section.
- (f) The applicant who is applying with attest experience obtained outside the United States and its territories must present work papers substantiating that such experience meets the requirements of subsection (b) and generally accepted auditing standards. Alternatively, the applicant may acquire a minimum of 500 hours of United States experience which meets the requirements of Business and Professions Code Section 5095 and subsection (b).
- (g) An applicant who is applying with experience obtained five (5) or more years prior to application and who has not passed the Uniform CPA Examination during this five-year period shall be required to complete 80 hours of continuing education, which shall meet the following requirements:

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

### **Article 3 - Practice Privileges (operative July 1, 2013 – December 31, 2018)**

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

- (a) An individual who is required to provide notification to the Board pursuant to Section 5096(i)(1) of the Business and Professions Code shall do so on the Practice Privilege Pre-Notification of Listed Events Form (PP-10 (1/13)), which is hereby incorporated by reference.
- (b) An individual who is required to provide notification to the Board pursuant to Section 5096(f) of the Business and Professions Code shall do so on the Notification of Cessation of Practice Privilege Form (PP-11 (1/13)), which is hereby incorporated by reference.
- (c) An individual applying for reinstatement of a practice privilege under Section 5096.2(c) of the Business and Professions Code shall do so on the Application for Reinstatement of Practice Privilege (PP-12 (1/13)), which is hereby incorporated by reference.
- (d) An individual who is required to provide notification to the Board pursuant to Section 5096(e)(10) of the Business and Professions Code shall do so on the Practice Privilege Notification of Pending Criminal Charges (PP-15 (6/14)) form, which is hereby incorporated by reference.

## Article 5 - Registration

### §37. Reissuance.

- (a) A certified public accountant (CPA) whose certificate has been cancelled by the operation of Business and Professions Code Section 5070.7 may apply for and obtain a new certificate if the applicant is otherwise qualified under the provisions of Section 5070.7 and the applicant meets the requirements of subsection (b) or (c) of this section. The reissued certificate will permit the CPA to perform the same services as did the cancelled certificate except that a CPA whose cancelled certificate authorized signing reports on attest engagements may choose to be reissued a certificate that does not provide this authorization.
- (b) An applicant who is applying for a reissued certificate shall complete 80 hours of continuing education that meets the following requirements:
  - (1) For an applicant whose reissued certificate will authorize signing reports on attest engagements, the 80 hours must be completed as follows:
    - (A) The 80 hours must be completed in the two years preceding approval of the application by the Board.
    - (B) All 80 hours must meet the requirements as described in Section 88.
    - (C) Within the 80 hours, the following minimums must be met:
      - (i) 16 hours in financial accounting standards.
      - (ii) 16 hours in auditing standards.
      - (iii) 8 hours in compilation and review.
      - (iv) 8 hours in other comprehensive basis of accounting.
      - (v) 8 hours in the prevention, detection, and/or reporting of fraud affecting financial statements.
      - (vi) 24 hours in courses that meet the requirements of Section 87(a)(2) or Section 87(a)(3).
  - (2) For an applicant whose reissued certificate will not authorize signing reports on attest engagements, 80 hours must be completed as follows:
    - (A) The 80 hours must be completed in the two years preceding approval of the application by the Board.
    - (B) All 80 hours must meet the requirements as described in Section 87(a)(2)-(4) and Section 88.
  - (3) Certificates of completion must be submitted to the Board and shall contain a verification certified by a program provider representative such as a signature or seal. The certificate of completion must also delineate the subject areas for which the applicant may claim credit.
- (c) In lieu of meeting the requirements of subsection (b) of this section, the applicant may choose to retake and successfully complete the entire Uniform CPA examination.

## Article 6 - Peer Review

### §38. Purpose of this Article.

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

### §40. Enrollment and Participation.

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

### §41. Firm Responsibilities.

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

### §42. Exclusions.

- (a) The following shall be excluded from the peer review requirement:
  - (1) Any of a firm's engagements subject to inspection by the Public Company Accounting Oversight Board as part of its inspection program.
  - (2) Firms, which as their highest level of work, perform only preparation engagements (with or without disclaimer reports) in accordance with the provisions of the Statements on Standards for Accounting and Review Services (SSARS).

**Example:** Mandy, a CPA, runs Mandy CPA, which performs only preparation engagements without disclaimer reports. Effective January 1, 2017, regulation §42 was amended to include firms, which as their highest level of work, perform only preparation engagements with or without disclaimer reports. Mandy CPA is excluded from the peer review requirement and doesn't need to participate in peer review.

### §44. Notification of Expulsion.

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



## Article 9 - Rules of Professional Conduct

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

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

- (a) The licensee provides reasonable notice to the prospective client or the prospective client’s representative that the information will not be treated as confidential information in the event the provider does not become a client and that providing such information will not preclude the licensee from being employed by a party adverse to the potential client in any current or future legal action or proceeding. For purposes of this section, “reasonable notice” shall mean the following:
  - (1) With respect to oral communications, including telephonic communications, reasonable notice consists of oral notice to the speaker given immediately by the licensee upon hearing that client information is being presented or will be presented.
  - (2) With respect to written communications, including electronic and facsimile communications, reasonable notice consists of an oral or written notice to the sender within one business day.
- (b) The licensee, on request, returns the original and all copies of documents provided by the prospective client or his or her representative within 30 days.
- (c) The licensee does not utilize in any manner the information obtained, except that nothing shall prohibit the licensee from utilizing the same information obtained from an independent source such as through litigation discovery.

## Article 12 - Continuing Education Rules

### §80. Inactive License Status.

- (a) Upon application, a licensee may have his/her license placed in an inactive status.
- (b) The holder of a license in an inactive status shall not engage in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code. This section does not prohibit a holder of a license in an inactive status from receiving a share of the net profits from a public accounting firm or other compensation from a public accounting firm, provided that the licensee does not otherwise engage in the practice of public accountancy.
- (c) A license in an inactive status shall be renewed during the same time period in which a license in an active status is renewed. The renewal fee for a license in an inactive status shall be the same as the renewal fee for a license in an active status.
- (d) The continuing education requirements described in Section 87 are not applicable at the time of renewal for a licensee renewing a license in an inactive status.
- (e) At the time of renewal, the holder of a license in an inactive status may convert his/her license to an active status by paying the renewal fee and complying with the continuing education requirements as described in Section 87, with the exception of Section 87(a)(1). A minimum of 20 hours of continuing education shall be completed in the one-

year period immediately preceding the time of renewal, 12 hours of which must be in technical subject areas described in Section 87(a)(2).

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

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

- (a) As a condition for renewing a license in an active status, a licensee renewing an expired license shall adhere to the basic requirements described in Section 87 in the two-year period immediately preceding the date on which the licensee applies for license renewal. No carryover of continuing education is permitted from one license renewal period to another.
- (b) For the purpose of this section, the following definitions shall apply:
  - (1) “Date on which the licensee applies for license renewal” shall mean the date the license application, including the applicable renewal and delinquency fee, is postmarked on the envelope.
  - (2) “Expired” shall mean delinquent, lapsed, or a late renewal that is postmarked after the licensee's last or most recent license expiration date up to five years.

**§87. Basic Requirements.**

- (a) 80 Hours. As a condition for renewing a license in an active status, a licensee shall complete at least 80 hours of continuing education in the two-year period immediately preceding license expiration, and meet the reporting requirements described in Section 89(a). A licensee engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code is required to hold a license in an active status. No carryover of continuing education is permitted from one license renewal period to another.
  - (1) A licensee renewing a license in an active status, shall complete a minimum of 20 hours in each year of the two-year license renewal period, with a minimum of 12 hours of the required 20 hours in technical subject areas as described in subsection (a)(2).
  - (2) Licensees shall complete a minimum of 50 percent of the required continuing education hours in the following technical subject areas: accounting, auditing, fraud, taxation, consulting, financial planning, ethics as defined in subsection (b), regulatory review as defined in Section 87.8, computer and information technology (except for word processing), and specialized industry or government practices that focus primarily upon the maintenance and/or enhancement of the public accounting skills and knowledge needed to competently practice public accounting.
  - (3) Licensees may claim no more than 50 percent of the required number of continuing education hours in the following non-technical subject areas: communication skills, word processing, sales, marketing, motivational techniques, negotiation skills, office management, practice management, and personnel management.
  - (4) Programs in the following subject areas are not acceptable continuing education: personal growth, self-realization, spirituality, personal health and/or fitness,

sports and recreation, foreign languages and cultures and other subjects which will not contribute directly to the professional competence of the licensee.

- (b) **Ethics Continuing Education Requirement.** A licensee renewing a license in an active status shall complete four hours of the 80 hours of continuing education required pursuant to subsection (a) in an ethics course. The course subject matter shall consist of one or more of the following areas: a review of nationally recognized codes of conduct emphasizing how the codes relate to professional responsibilities; case-based instruction focusing on real-life situational learning; ethical dilemmas facing the accounting profession; or business ethics, ethical sensitivity, and consumer expectations. Programs in the following subject areas are not acceptable toward meeting this requirement: sexual harassment, workplace harassment, or workplace violence. Courses must be a minimum of one hour as described in Section 88.2.
- (c) **Government Auditing Continuing Education Requirement.** A licensee who engages in planning, directing, conducting substantial portions of field work, or reporting on financial or compliance audits of a governmental agency shall complete 24 hours of the 80 hours required pursuant to subsection (a) in the areas of governmental accounting, auditing or related subjects. This continuing education shall be completed in the same two-year license renewal period as the report is issued. A governmental agency is defined as any department, office, commission, authority, board, government-owned corporation, or other independent establishment of any branch of federal, state or local government. Related subjects are those which maintain or enhance the licensee's knowledge of governmental operations, laws, regulations or reports; any special requirements of governmental agencies; subjects related to the specific or unique environment in which the audited entity operates; and other auditing subjects which may be appropriate to government auditing engagements. A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (d).
- (d) **Accounting and Auditing Continuing Education Requirement.** A licensee who engages in planning, directing, performing substantial portions of the work, or reporting on an audit, review, compilation, or attestation service, shall complete 24 hours of the 80 hours of continuing education required pursuant to subsection (a) in the course subject matter pertaining to financial statement preparation and/or reporting (whether such statements are prepared on the basis of generally accepted accounting principles or other comprehensive bases of accounting), auditing, reviews, compilations, industry accounting, attestation services, or assurance services. This continuing education shall be completed in the same two-year license renewal period as the report is issued.
- (e) **Accounting and Auditing Continuing Education Requirement When Providing Preparation Engagements as Highest Level of Service.** A licensee who provided preparation engagements as his/her highest level of service shall complete eight of the 80 hours of continuing education required pursuant to subsection (a) in preparation engagements or accounting and auditing as described in Section 87(d).
- (f) A licensee who must complete continuing education pursuant to subsections (c), (d), or (e) of this section shall also complete an additional four hours of continuing education specifically related to the prevention, detection, and/or reporting of fraud affecting financial statements. This continuing education shall be part of the 80 hours of continuing

education required by subsection (a), but shall not be part of the continuing education required by subsections (c), (d), or (e).

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

**Note:** Amendments to the continuing education requirements applicable to active licensees, new licensees, and licensees with converted or restored licenses to adopt specific course and hour requirements for licensees who, at their highest level of service, perform preparation engagements became effective on October 1, 2017. Section 87 (d) through (g) above have been updated to reflect these changes.

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

- (a) Following an investigation or hearing conducted pursuant to Business and Professions Code Section 5103 the Board or its designee may order a licensee to:
- (1) Complete one or more hours of continuing education not to exceed 80 hours in addition to the 80 hours qualifying continuing education required by Section 87, subsection (a), prior to permit renewal, which will contribute to the licensee's professional competence.
  - (2) Complete one or more of the 80 hours of qualifying continuing education required by Section 87, subsection (a), or one or more of the hours ordered pursuant to subsection (a)(1) of this section, in a designated course of study which will contribute to the licensee's professional competence.
  - (3) Complete one or more of the 80 hours of qualifying continuing education required by Section 87, subsection (a), or one or more hours ordered pursuant to this section, by a specified date. Such date may be extended by the Board or its designee.
- (b) Failure of a licensee to comply with an order by the Board or its designee made pursuant to this section constitutes cause for disciplinary action under Section 5100 of the Business and Professions Code.

**§87.6. Records Review Continuing Education Requirements.**

- (a) The Report Quality Monitoring Committee is a committee appointed by the Board. This committee's functions include the review of financial reports selected under Section 89.1 to monitor and promote compliance with applicable accounting principles and reporting standards. The Report Quality Monitoring Committee may order a licensee to:
- (1) Complete one or more of the 80 hours of qualifying continuing education required by Section 87(a) in a designated course of study which will contribute to the licensee's professional competence.
  - (2) Complete one or more of the 80 hours of qualifying continuing education required by Section 87(a) or 87.6(a)(1) by a specified date. Such date may be extended by the committee.

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

**§87.8. Regulatory Review Course.**

- (a) In order to renew a license in an active status after December 31, 2009, a licensee shall, within the six years preceding the license expiration date, complete a continuing education course on the provisions of the California Accountancy Act and the California Board of Accountancy Regulations specific to the practice of public accountancy in California emphasizing the provisions applicable to current practice situations. The course also will include an overview of historic and recent disciplinary actions taken by the Board, highlighting the misconduct which led to licensees being disciplined. The course shall be a minimum of two hours, and a licensee shall select from a list of Board-approved courses. The two hours can be counted towards the 80 hours required pursuant to Section 87.
- (b) A licensee shall report completion of the Regulatory Review course at the time of renewal.

**CBA Case**

**Cause for Discipline**

Accusation No. AC-2016-102 contains the following allegations:

Respondent is subject to disciplinary action for false statements or omissions in the application for or renewal of a license. Respondent willfully and falsely reported that he completed the required total number of hours of CE on his license renewal application for the renewal period ending March 31, 2015. Respondent also willfully and falsely reported that he completed four hours of ethics CE on February 12, 2014.

Respondent is subject to disciplinary action for failing to comply with the CE requirement of a minimum of 20 hours during each year of the two-year renewal period.

**Violations Charged**

Business and Professions Code, Division 3, Chapter 1, §5100 (b) and (g). California Code of Regulations, Title 16, Division 1, §87 (a).

**CBA Actions**

Revocation stayed with three years' probation, via stipulated settlement.

Respondent shall reimburse the CBA \$3,011.48 for its investigation and prosecution costs. Payment shall be made within six months of the date the CBA's decision is final.

Respondent shall complete four hours of continuing education (CE) in ethics. The hours shall be completed within 180 days of the effective date of the CBA's decision and order and are in addition to the CE hours required for relicensing.

Respondent shall complete a CBA-approved Regulatory Review course. The course shall be completed within 180 days of the effective date of the CBA's decision and order and is in addition to the CE requirements for relicensing.

Respondent shall maintain an active license status.

Other standard terms of probation.

**Effective December 28, 2016<sup>6</sup>**

**§88. Programs Which Qualify.**

(a)

- (1) The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of a licensee in public practice. It is the obligation of each licensee to select a course of study, consistent with the requirements of this section and Sections 88.1 and 88.2, which will contribute directly to his/her professional competence.

**Example:** Stewart breaks down his 2-year period CPE of 80 credits into the following categories:

Accounting: 12

Auditing: 16

Taxation: 10

Communications: 20

Marketing: 10

Practice management: 12

Stewart has only 38 credits (47.5%) in the areas that require a minimum of 50%, and more (52.5%) in areas that can only be a maximum of 50% of his credits. He should add some credits in the required areas of 88(a)(1) before his deadline.

- (2) A formal program of learning is an instructional activity that meets the requirements of this section and Sections 88.1 and 88.2 or a course for which academic credit is granted by a university, college, or other institution of learning accredited by a regional or national accrediting agency.
- (b) The following types of live presentation programs are deemed to qualify as acceptable continuing education provided the standards outlined in Section 88(a), Section 88.1, and Section 88.2 are maintained.
- (1) Professional development programs of national and state accounting organizations.
  - (2) Technical session at meetings of national and state accounting organizations and their chapters which are designed as formal educational programs.
  - (3) University or college courses:

<sup>6</sup> As published in the California Board of Accountancy *Newsletter*, Issue No. 83, Winter 2017. Actual name(s) of practitioner omitted.

- (i) Credit courses: each semester hour credit shall equal 15 hours toward the requirement. Each quarter hour credit shall equal 10 hours.
  - (ii) Non-credit courses: each classroom hour will equal one qualifying hour.
- (4) Other formal educational programs provided the program meets the required standards.
- (c) Group Internet-Based Programs (Webcast): Programs that enable a licensee to participate from a computer in an interactive course presented by a live instructor at a distant location are qualifying, provided the program is based upon materials specifically developed for instructional use and meets the requirements of Section 88(a), Section 88.1 and Section 88.2. Group viewing of a webcast program is permissible only where a live facilitator logs into the program to ask questions on behalf of the group. The live facilitator shall document and verify group participation and attendance in accordance with the requirements of Section 88.1 and 88.2.
- (d) Formal correspondence or other individual study programs are qualifying provided
  - (1) the program is based upon materials specifically developed for instructional use,
  - (2) the program meets the requirements of Section 88(a), Section 88.1, and Section 88.2,
  - (3) the program is completed within one year from the date of purchase or enrollment, and
  - (4) the licensee receives a passing score.
- (e) Self-study modules for national examinations that contribute to the professional competency of a licensee in public practice, such as the CERTIFIED FINANCIAL PLANNER™ Certification Examination or the Certified Management Accountant examination qualify as acceptable continuing education if the modules meet the requirements of subsection (d).
- (f) Credit as an instructor, discussion leader, or speaker shall be allowed for any meeting or program provided that the session is one which meets the continuing education requirements set forth in subsection (a)(1), Section 88.1, and Section 88.2. The credit allowed an instructor, discussion leader, or a speaker shall be on the basis of actual presentation hours, plus up to two additional hours for actual preparation time for each hour taught. The maximum credit for such preparation and teaching shall not exceed 50 percent of the renewal period requirement. For repeat presentations, an instructor shall receive no credit unless the instructor can demonstrate that the program content was substantially changed and that such change required significant additional study or research. Credit for licensees attending, not as instructors, discussion leader, or speakers, is limited to the actual meeting time.
- (g) Credit may be allowed by the Board on an hour-for-hour basis for the following activities:
  - (1) Writing published articles and books provided the publisher is not under the control of the licensee, and the article and/or book would contribute to his/her professional competence.
  - (2) Writing instructional materials for any continuing education program which meets the requirements of subsection (a)(1), Section 88.1, and Section 88.2.

- (3) Writing questions for the Uniform Certified Public Accountant Examination.
  - (4) Performing a technical review of instructional materials for any continuing education program which meets the requirements of subsection (a)(1), Section 88.1, and Section 88.2. For the purposes of this section a technical review shall mean reviewing for technical accuracy, currency of the information, and attainment of stated learning objectives.
- (h) The maximum credit allowed under subsection (g) shall not exceed 25 percent of the renewal period requirement.
- (i) In order for any continuing education hours to be acceptable to the Board under this article, the hours shall be completed in a program which qualifies under this section or Section 87.9.

**§89.1. Reports.**

- (a) For purposes of monitoring and promoting compliance with applicable accounting principles and reporting standards, the Report Quality Monitoring Committee may require licensees, selected on the basis of a statistical sampling or upon referral from another committee of the Board, to supply copies of selected financial reports they have issued during the previous two years. This requirement applies to any licensee who had primary responsibility for, and authority to sign, at least one financial report that was issued during the previous two years. The financial report or reports to be submitted shall be selected by the responding licensee and shall reflect the highest level of service rendered by such licensee during the period. For purposes of this regulation, financial report shall mean:
- (1) the licensee’s report issued as the result of an engagement covered by generally accepted auditing standards or government auditing standards (audit), or standards for accounting and review services (compilation or review), or attestation standards (attest engagements),
  - (2) accompanying financial statements or other client assertion,
  - (3) accompanying footnotes, and
  - (4) supplementary financial data, if any.
- (b) Willful failure or refusal of a licensee to comply with the Board’s written request for a copy of financial report(s), within 30 calendar days of the licensee’s receipt of that request, constitutes a violation of Section 5100(g) of the Accountancy Act.

**§90. Exceptions and Extensions.**

- (a) A renewal applicant may be granted either an extension of time to complete continuing education requirements or an exception from continuing education requirements. Extensions or exceptions may be granted by the Board for the following causes:
- (1) Reasons of health, certified by a medical doctor, which prevent compliance by the licensee;
  - (2) Service of the licensee on extended active duty with the Armed Forces of the United States;
  - (3) Other good cause.
- (b) No extension or exception shall be made solely because of age.



- (c) Willful failure of a licensee to complete applicable continuing education within a specified extension of time shall constitute cause for disciplinary action pursuant to section 5100(g) of the Accountancy Act.
- (d) A renewal applicant who has met the requirement of Section 87(a) and becomes subject to continuing education pursuant to Section 87(c), (d) or (e) during the last 6 months of a two-year license renewal period shall be granted, upon request, an extension of time of up to 6 months in which to complete the continuing education required by Section 87(c), (d) or (e). Continuing education completed pursuant to this extension shall be part of the 80 hours of continuing education required under Section 87(a) for the next two-year renewal period. However, it shall not be part of the 24 hours of continuing education required under Section 87(c) or (d) or the 8 hours of continuing education required under Section 87(e) for the next two-year renewal period.

**§93. Unexpired Licenses.**

Permits issued under these rules expire at 12 midnight on the last day of the birth month of an odd numbered year if the licensee was born in an odd numbered year or of an even numbered year if the licensee was born in an even numbered year. Permit renewal is the responsibility of the licensee. To renew an unexpired permit, a certificate holder or registrant shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed and give evidence to the board that the continuing education provisions of these regulations have been complied with. Renewal of an unexpired permit shall continue the permit in effect for the two-year renewal cycle ending in the licensee's birth month unless otherwise provided for in these regulations or the California Accountancy Act.

**§94. Failure to Comply.**

Failure to comply with these continuing education rules by a licensee engaged in public practice, as defined in Business and Professions Code Section 5051, constitutes cause for disciplinary action under Section 5100.

**Article 12.5 - Citations and Fines**

**§95. Citations.**

- (a) The executive officer of the board, in lieu of filing an accusation seeking the suspension or revocation of any permit or certificate or the censure of the holder of any such permit or certificate pursuant to Sections 5100, 5101 and 5156 of the Business and Professions Code, may issue a citation to any person as defined in Section 5035 of the Business and Professions Code who holds a permit or certificate from the board for a violation of any provision of the Accountancy Act or any regulation adopted by the board.
- (b) In his or her discretion, the Board's executive officer may issue a citation under this section to a licensee for a violation of a term or condition contained in a decision placing that licensee on probation.

**§95.1. Citation Format.**

Each citation:

- (a) shall be in writing;
- (b) shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated;
- (c) may contain an assessment of an administrative fine, an order of correction or abatement fixing a reasonable period of time for correction or abatement of the violation, or both an administrative fine and an order of correction or abatement;
- (d) shall be served in accordance with the provisions of Section 11505 (c) of the Government Code;
- (e) shall inform the cited person that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 calendar days of the issuance of the citation or assessment.

**§95.2. Fines.**

The amount of the administrative fine assessed by the executive officer pursuant to this article shall not be less than \$100 or more than \$5,000 for each investigation.

**§95.3. Citation Factors.**

In assessing an administrative fine or issuing an order of correction or abatement, the executive officer of the board shall give due consideration to the following factors:

- (a) The gravity of the violation.
- (b) The good or bad faith of the cited person or entity.
- (c) The history of previous violations.
- (d) Evidence that the violation was or was not willful.
- (e) The extent to which the cited person or entity has cooperated with the board’s investigation.
- (f) The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation.

**§95.4. Failure to Comply with Citation.**

The failure of a licensee to comply with a citation containing an assessment of administrative fine, an order of correction or abatement or both an administrative fine and an order of correction or abatement after this citation is final and has been served in accordance with the provisions of Section 11505(c) of the Government Code shall constitute a ground for revocation or suspension of the license or permit.

**CBA Case**

**Cause for Discipline**

Accusation No. AC-2016-58 contains the following allegations:

Respondent is subject to discipline in that on or about July 14, 2015, the CBA issued Citation Order No. CT-2016-10 against her and imposed the civil penalty of \$750, citing her for failing to submit her fingerprint and criminal offender record prior to the license renewal period that ended on September 30, 2014, and for failing to respond within 30 days to the CBA’s January 27, 2015, letter notifying her of

fingerprint non-compliance. Respondent did not file a Notice of Appeal of the Citation, has not complied with the Citation, and has not paid the civil penalties.

Respondent is subject to discipline in that for the license renewal period that ended on September 30, 2014, she failed to complete the required 80 hours of continuing education (CE) in that she was deficient in 36 hours of technical subject matter, 40 hours of technical and/or non-technical subject matter, and four hours of ethics education.

Respondent is subject to discipline in that she willfully failed to respond to the CBA's January 20, 2015, and April 21, 2015, inquiries regarding her license renewal deficiency for the renewal period that ended on September 30, 2014.

**Violations Charged**

Business and Professions Code, Division 1, Chapter 1, §125.9 (b)(5), Division 3, Chapter 1, §5100 (g). California Code of Regulations, Title 16, Division 1, §§37.5, 52, 87 and 95.4.

**CBA Actions**

Revocation stayed with three years' probation, via stipulated settlement.

Respondent shall reimburse the CBA \$3,432 for its investigation and prosecution costs. The payment shall be made in quarterly payments (due with the quarterly written reports); the final payment being due six months before probation is scheduled to terminate.

Respondent shall complete four hours of CE in ethics. The hours shall be completed within 180 days of the effective date of the CBA's decision and order.

Respondent shall complete a CBA-approved Regulatory Review course. The course shall be completed within 180 days of the effective date of the CBA's decision and order.

Respondent shall maintain an active license status.

Respondent shall successfully complete a state and federal-level criminal offender record information search conducted through the California Department of Justice within 30 days of the effective date of the CBA's decision and order.

Other standard terms of probation (with the exception of tolling).

**Effective December 28, 2016<sup>7</sup>**

**§95.5. Appeals.**

Any person or entity served with a citation pursuant to this Article and Sections 125.9 and 148 of the Business and Professions Code may contest the citation by appealing to the board in writing within 30 calendar days of the issuance of the citation. The cited person or entity may contest any or all of the following aspects of the citation:

- (a) The occurrence of a violation of the Accountancy Act or a regulation adopted by the board.
- (b) The reasonableness of the order of correction or abatement.

<sup>7</sup> As published in the California Board of Accountancy *Newsletter*, Issue No. 83, Winter 2017. Actual name(s) of practitioner omitted.

- (c) The period of time allowed for correction in the order of correction or abatement.
- (d) The amount of the administrative fine.

If the cited person or entity fails to notify the Board of his/her/its intent to contest the citation, the citation shall be deemed a final order of the Board and shall not be subject to administrative review.

If a cited person or entity notifies the Board that he/she/it intends to contest a citation, the Board shall afford an opportunity for a hearing. The Board shall thereafter issue a decision, based on findings of fact, affirming, modifying or vacating the citation or penalty or both, or directing other appropriate relief. The proceedings under this Section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code (the California Administrative Procedure Act). The failure of a cited person or entity who has appealed to the Board to appear at the time and place of the hearing shall be deemed a withdrawal of his, her or its appeal, and the citation shall constitute a final order of the Board and shall not be subject to administrative review.

**§95.6. Unlicensed, Unregulated Practice.**

The executive officer of the board may issue citations, in accordance with Section 125.9 and 148 of the Business and Professions Code, against any person defined in Business and Professions Code Section 5035 who is acting in the capacity of a licensee under the jurisdiction of the Board. Each citation may contain an assessment of an administrative fine, an order of abatement fixing a reasonable period of time for abatement of the violation, or both an administrative fine and an order of abatement. Administrative fines shall be in a range from \$100 to \$5,000 for each investigation. Any sanction authorized for activity under this section shall be separate from and in addition to any other civil or criminal remedies.

**Article 13 - Denial, Suspension, and Revocation of Certificates, Permits, or Licenses**

**§98. Disciplinary Guidelines.**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the disciplinary guidelines entitled “Disciplinary Guidelines and Model Orders” (9th edition, 2013), which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation, for example: the presence of mitigating factors; the age of the case; evidentiary problems.

**§99. Substantial Relationship Criteria.**

For the purposes of denial, suspension, or revocation of a certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a certified public accountant or public accountant if to a substantial degree it evidences present or potential unfitness of a certified public accountant or public accountant to perform the functions authorized by his or her certificate or permit in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

1. Dishonesty, fraud, or breach of fiduciary responsibility of any kind;
2. Fraud or deceit in obtaining a certified public accountant's certificate or a public accountant's permit under Chapter 1, Division III of the Business and Professions Code;
3. Gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052 of the code;
4. Violation of any of the provisions of Chapter 1, Division III of the Business and Professions Code or willful violation of any rule or regulation of the board.

### **CBA Case**

#### **Cause for Discipline**

Accusation No. AC-2013-36 contains the following allegations:

On October 25, 2012, a jury found the respondent guilty of four felony counts of willfully making and subscribing to a false federal individual income tax return (26 U.S.C. §7206, subd. (1)). On March 4, 2013, the United States District Court for the Central District of California sentenced the respondent to 36 months in prison and ordered him to pay a special assessment of \$400. The court waived payment of the fine because respondent could not pay it. The court ordered that he be placed on one year of supervised probation following his release from prison.

#### **Violations Charged**

Business and Professions Code, Division 1.5, Chapter 3, §490; Division 3, Chapter 1, §§5100 (a), (c), (g), (i) and (j), 5101 (a) and 5106. California Code of Regulations, Title 16, Division 1, §99.

#### **CBA Actions**

Revocation of CPA and PAR Licenses, via proposed decision. Respondent is ordered to pay the CBA \$7,730 for its enforcement costs.

**Effective December 28, 2016<sup>8</sup>**

### **Summary**

This course covered selected portions of both the Accountancy Act and California Board of Accountancy Regulations. As a CPA in the state of California, you are required to adhere to all of the rules, so it bears to say that it would be in your best interest to read them in their entirety. Appendix A features links to useful websites, including the CBA's website. Appendix B is a reprint of the latest Accountancy Act (current as of January 1, 2018). Appendix C is reprint of the CBA Regulations (current as of April 1, 2018).

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<sup>8</sup> As published in the California Board of Accountancy *Newsletter*, Issue No. 83, Winter 2017. Actual name(s) of practitioner omitted.

## Section 2 Review Questions

The review questions accompanying this course are designed to assist you in achieving the course learning objectives. The review section is not graded; do not submit it in place of your qualified assessment. While completing the review questions, it may be helpful to study any unfamiliar terms in the glossary in addition to course content. After completing the review questions, proceed to the review question answers and rationales.

5. Which of the following is true concerning CPE requirements for active status licensees?
  - a. 60 hours must be completed during a 2-year period.
  - b. At least 50% of credits must be in accounting, auditing, fraud, taxation, consulting, financial planning, ethics, regulatory review, computers and information technology, and/or specialized industry and government practices.
  - c. Courses in foreign languages and cultures must comprise less than 25% of credit hours to be accepted.
  - d. Only 20 credits may be carried over from one renewal period to another.
  
6. When a citation is issued by the Board:
  - a. Failure of a cited person or entity to appear at the appeal hearing will result in an additional fine.
  - b. It cannot be issued to a licensee on probation.
  - c. Failure to notify the Board of intent to contest the citation results in a final order being issued.
  - d. The reasonableness of the order cannot be contested.

## Review Question Answers and Rationales

Review question answer choices are accompanied by unique, logical reasoning (rationales) as to why an answer is correct or incorrect. Evaluative feedback to incorrect responses and reinforcement feedback to correct responses are both provided.

### Section 1

1. Who may use the title chartered accountant?
  - a. Only CPAs licensed in California. Incorrect. The title chartered accountant may only be used by a CPA who was granted the title chartered accountant by another country.
  - b. Only CPAs enrolled to practice before the IRS. Incorrect. Practicing before the IRS is unrelated to the use of the title chartered accountant.
  - c. Any person enrolled to practice before the IRS. Incorrect. Persons enrolled to practice before the IRS may use the title enrolled agent or EA, not the title of chartered accountant.
  - d. **Only a CPA who also holds the title chartered accountant granted under the laws of another country. Correct. The title chartered accountant, certified accountant, registered accountant or licensed accountant, or the abbreviations CA, RA, or LA, may only be used by person qualified as a certified public accountant under this chapter who also holds a comparable title granted under the laws of another country.**
  
2. What is required when a firm receives a substandard peer review report?
  - a. A copy of the report must be sent by registered mail to the Board within 20 days. Incorrect. A copy of the report must be sent to the Board within 60 days, but is not required to be sent by registered mail.
  - b. A copy of the report must be filed with the Board within 20 days. Incorrect. The period for the report to be filed must not exceed 60 days.
  - c. The partners of the firm must file with the Board a plan of remedial actions. Incorrect. Corrective actions may be recommended by the peer review program provider, but those corrective actions are not required to be filed with the Board by the partners of the firm.
  - d. **A copy of the report may be filed electronically with the Board within 60 days. Correct. Both the firm that was issued a substandard peer review report and the Board-recognized peer review program provider must file a copy of the substandard peer review report to the Board. These reports may be filed electronically.**

3. Which of the following is true regarding payment of costs for disciplinary actions?
- a. **Administrative hearing costs are not recoverable. Correct. The Board may not recover any costs that were incurred at an administrative hearing.**
  - b. Reasonable costs must be paid within 90 days. Incorrect. Costs are payable 120 days after the decision of the Board, unless the administrative law judge or Board extends the payment period.
  - c. The Board determines the amount that must be paid. Incorrect. An administrative law judge makes a proposed finding of the amount of reasonable costs.
  - d. Costs recovered must be deposited into the general fund. Incorrect. Costs recovered are to be deposited into the accountancy fund.
4. The Board may assess administrative penalties up to:
- a. \$5,000. Incorrect. The Board may assess an administrative penalty of not more than \$5,000 for a first violation and not more than \$10,000 for each subsequent violation of Section 5116, but may assess other penalties up to \$5,000,000.
  - b. \$50,000. Incorrect. The maximum assessment for natural persons is \$50,000 for a first violation and not more than \$100,000 for each subsequent violation of Section 5100 (a), (c), (i), (j), or (k). The maximum penalty that may be assessed is \$5,000,000.
  - c. \$100,000. Incorrect. This is the maximum assessment for natural persons, but assessments for other than natural persons may go up to \$5,000,000.
  - d. **\$5,000,000. Correct. The Board may assess an administrative penalty up to \$5,000,000 for subsequent violations of subdivision (a), (c), (i), (j) or (k) of Section 5100 for licensees other than natural persons.**

## Section 2

5. Which of the following is true concerning CPE requirements for active status licensees?
- a. 60 hours must be completed during a 2-year period. Incorrect. 80 hours of CPE are required for each 2-year period in California.
  - b. **At least 50% of credits must be in accounting, auditing, fraud, taxation, consulting, financial planning, ethics, regulatory review, computers and information technology, and/or specialized industry and government practices. Correct. At least half of the 80 credits submitted for the renewal period must be from these core accounting areas.**
  - c. Courses in foreign languages and cultures must comprise less than 25% of credit hours to be accepted. Incorrect. These courses, along with those in spirituality, sports and recreation, personal growth, etc. are not acceptable as CPE.
  - d. Only 20 credits may be carried over from one renewal period to another. Incorrect. California does not allow any credits to carry over from one renewal period to another.



6. When a citation is issued by the Board:
- a. Failure of a cited person or entity to appear at the appeal hearing will result in an additional fine. Incorrect. Failure to appear at a citation appeal hearing results in the Board ruling becoming a final order.
  - b. It cannot be issued to a licensee on probation. Incorrect. A licensee on probation can be issued a citation by the Board.
  - c. **Failure to notify the Board of intent to contest the citation results in a final order being issued. Correct. Once receiving a citation, a licensee must respond to the Board and voice his or her intent to contest the Board ruling.**
  - d. The reasonableness of the order cannot be contested. Incorrect. The reasonableness of the order, along with aspects of the citation such as the occurrence of the violation, the time allowed for correction in an order of correction or abatement, and the amount of the fine can all be contested.

## Appendix A – State of California Information Page

### **California Board of Accountancy**

[www.dca.ca.gov/cba](http://www.dca.ca.gov/cba)

Main Phone: 916-263-3680

Enforcement Unit Phone: 916-561-1729

Enforcement Fax: 916-263-3673

Email: [enforcement@cba.ca.gov](mailto:enforcement@cba.ca.gov)

### **California Society of CPAs (CalCPA)**

[www.calcpa.org](http://www.calcpa.org)

Phone: 800-922-5272

### **American Institute of CPAs (AICPA)**

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**Appendix B – Accountancy Act**

## **Appendix C – California Board of Accountancy Regulations**

## Glossary

This is a glossary of key terms with definitions. Please review any terms you are not familiar with.

**Accounting and auditing practice:** Any services that were performed in the prior three years using professional standards defined by the Board.

**Activity:** Bookkeeping, financial planning, investment planning, tax services, and management services.

**American Institute of Certified Public Accountants (AICPA):** The national professional organization for all certified public accountants (CPAs).

**Client's records:** Any accounting or other records belonging to the client that were given to the member by, or on behalf of, the client.

**Code of Professional Conduct (the Code):** The Code was adopted by the membership of the AICPA to provide guidance and rules to all members on various ethics requirements. The Code consists of: 1) Principles, 2) Rules, 3) Interpretations, and 4) Ethics Rulings.

**Confidential information:** All information obtained by a licensee that concerns a client or prospective client, except information obtained from a prospective client who does not become a client.

**Consulting services:** Professional services that use the practitioner's technical skills, education, observations, experiences, and knowledge of the consulting process.

**Contingent fee:** A fee for performing any service in which the amount of the fee (or whether a fee will be paid) depends on the results of the service.

**Conviction:** Includes the initial plea, verdict or finding of guilt, pleas of no contest, or pronouncement of sentence by a trial court, even though that conviction may not be final or sentence actually imposed until appeals are exhausted.

**Director:** Any person defined under Section 164 of the Corporations Code and officer means any individual reported to a regulatory agency as an officer of a corporation.

**Expired:** Delinquent, lapsed, or a late renewal that is postmarked after the licensee's most recent license expiration date up to five years.

**Firm:** A form of organization permitted by state law or regulation whose characteristics conform to resolutions of Council that is engaged in the practice of public accounting, including the individual owners thereof.

**Former practitioner:** A proprietor, partner, shareholder or equivalent of a firm, who leaves by resignation, termination, retirement, or sale of all or part of the practice.

**Holding out as a CPA:** Includes any action initiated by a member, whether or not in public practice, that informs others of his or her status as a CPA.

**Integrity:** An element of character fundamental to professional recognition. It is the quality from which public trust derives and the benchmark against which a member must ultimately test all decisions.

**Licensee:** Any holder of an active, inactive, suspended, or expired certified public accountant license or public accountant license issued by the Board which is not canceled or revoked.

**Licensed firm:** Any partnership or professional corporation licensed by the Board to practice public accountancy, even if the license is suspended or expired, provided the license is not canceled or revoked.

**Member:** In its broadest sense, “member” is a term used to describe a member, associate member, or international associate of the AICPA. All members must adhere to the AICPA’s Code of Professional Conduct. For the purposes of applying the independence rules, the term “member” identifies the people in a CPA firm and their spouses, dependents, and cohabitants who are subject to the independence requirements.

**National Association of State Boards of Accountancy (NASBA):** A voluntary organization composed of the state boards of accountancy. It promotes communication, coordination, and uniformity among state boards.

**Objectivity:** The principle of objectivity imposes the obligation to be impartial, intellectually honest, and free of conflicts of interest. Objectivity is a state of mind, a quality that lends value to a member’s services.

**Peer review:** A study, appraisal, or review conducted in accordance with professional standards of the professional work of a firm, and may include an evaluation of other factors in accordance with the requirement specified by the Board.

**Principles:** Positive statements of responsibility in the Code of Professional Conduct that provide the framework for the rules, which govern performance.

**Professional services:** Includes all services performed by a member while holding out as a CPA.

**Public practice:** Consists of the performance of professional services for a client by a member or member’s firm. Also referred to as the practice of public accounting.

**Reasonable notice:** With respect to oral communications, including telephonic communications, reasonable notice consists of oral notice to the speaker given immediately by the licensee upon hearing that client information is being presented and with respect to written communications,

including electronic and facsimile communications, reasonable notice consists of an oral or written notice to the sender within one business day.

**Rules:** Broad but specific descriptions of conduct that would violate the responsibilities stated in the principles in the Code of Professional Conduct.

**Securities and Exchange Commission (SEC):** A federal government regulatory agency with responsibility for administering the federal securities laws.

**State boards of accountancy:** State government regulatory organizations. Each state government issues a license to practice within the particular state under that state's accountancy statute.

**State societies of CPAs:** Voluntary organizations of CPAs within each individual state.

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## Qualified Assessment

California Ethics for CPAs: Regulatory Review

Course # 4150617, Version 1810

Publication/Revision Date:

October 2018

### Course Expiration Date

Per AICPA and NASBA Standards (S9-06), QAS Self-Study courses must include an expiration date that is *no longer than one year from the date of purchase or enrollment*.

Complete this assessment online at [www.westerncpe.com](http://www.westerncpe.com) and receive your certificate and results instantly!

1. A licensee who provides attestation services must complete \_\_\_\_\_ hours of accounting and auditing continuing education during each license renewal period.
  - a. 6.
  - b. 18.
  - c. 24.
  - d. 30.
  
2. A continuing education course related to the Accountancy Act and California Board of Accountancy Regulations, as well as the rules of professional conduct, must be completed by California licensees every \_\_\_\_\_ years.
  - a. Two.
  - b. Four.
  - c. Six.
  - d. Ten.
  
3. A licensee who is in charge of fieldwork for an audit engagement for a publicly traded corporation may **NOT** accept employment as a manager of financial reporting with that corporation within:
  - a. 12 months of completion of the audit.
  - b. 12 months of the issuance of the report.
  - c. 30 months of completion of the audit.
  - d. 30 months of the issuance of the report.
  
4. An insurer must report to the Board any payment of a civil action settlement against a licensee of the Board when the settlement exceeds:
  - a. \$10,000.
  - b. \$30,000.
  - c. \$50,000.
  - d. \$100,000.

5. When do licensee permits expire?
  - a. Midnight on the legal birthday of the licensee.
  - b. Midnight on the last day of the month of the legal birthday of the licensee.
  - c. At the close of business of the Board on December 31.
  - d. At the close of business on the two-year anniversary of the day the initial permit was issued.
  
6. In general, an expired license may be renewed within:
  - a. Five years after issuance.
  - b. Five years after expiration.
  - c. Ten years after issuance.
  - d. Ten years after expiration.
  
7. How often must a firm submit to a peer review?
  - a. Every renewal period.
  - b. Every two renewal periods.
  - c. Every year.
  - d. Every three years.
  
8. Audit documentation must be retained for \_\_\_\_\_ years.
  - a. Three.
  - b. Five.
  - c. Seven.
  - d. Ten.
  
9. What is the maximum monetary penalty for conviction of a misdemeanor violation of Article 3?
  - a. \$1,000.
  - b. \$5,000.
  - c. \$10,000.
  - d. \$50,000.
  
10. A licensee must return documents to a prospective client within \_\_\_\_\_ days of request.
  - a. Ten.
  - b. Twenty.
  - c. Thirty.
  - d. Forty.



## Answer Sheet

California Ethics for CPAs: Regulatory Review  
Course # 4150617, Version 1810  
2 CPE Credits

Date: \_\_\_\_\_

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

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Fax: \_\_\_\_\_ E-mail\*: \_\_\_\_\_

\*E-mail address MUST be unique (not shared with another CPA) for Western CPE to grade your assessment

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- |         |         |         |         |          |
|---------|---------|---------|---------|----------|
| 1. ____ | 3. ____ | 5. ____ | 7. ____ | 9. ____  |
| 2. ____ | 4. ____ | 6. ____ | 8. ____ | 10. ____ |



**Course Evaluation**  
California Ethics for CPAs: Regulatory Review  
Course # 4150617, Version 1810

Thank you for taking the time to fill out this course and customer experience evaluation. Your responses help us to build better courses and maintain the highest levels of service. If you have comments not covered by this evaluation, or need immediate assistance, please contact us at 800.822.4194 or [wcpe@westerncpe.com](mailto:wcpe@westerncpe.com).

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The course materials were accurate, relevant, and contributed to the achievement of the learning objectives.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The stated prerequisites were appropriate and sufficient.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Based on 50 minutes per credit hour, the time to take this course accurately reflects the credit hours assigned to it.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The instructor was knowledgeable and effective.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

2. Were there any questions you felt were confusing or had incorrect answers listed? If so, please give the question number and a brief description of the issue:

3. Please provide any additional comments specific to the educational content or author of this course:

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Live Webcast	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Resort Conference or Seminar	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

7. Please use the box below to provide any additional comments related to your educational experience with Western CPE.

8. If you are willing to provide a quote about this course, or Western CPE in general, that we may use in our promotional materials, please state it below. Be sure to include your name, title, city, and state.