

Section 1. **[156.15] CEASE AND DESIST ORDERS.**

Subdivision 1. **ISSUANCE.** In addition to the remedies and procedures applicable to the health-related licensing board provided in chapter 214, the board's complaint review committee, on behalf of the board, may issue and have served upon a person an order requiring the person to cease and desist from the unauthorized practice of veterinary medicine, or from violating or threatening to violate a statute, rule, or order which the board has authority to enforce. The order must be calculated to give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order.

Subd. 2. **SERVICE.** Service of an order under this section is effective if the order is served on the person or counsel of record personally or by certified mail to the most recent address provided to the board for the person or counsel of record.

Subd. 3. **HEARING.** Unless otherwise agreed by the complaint review committee and the person requesting the hearing, the hearing must be held no later than 30 days after the written request for the hearing is received by the complaint review committee.

Subd. 4. **REPORT; FURTHER ORDER.** The administrative law judge shall issue a report within 30 days of the close of the contested case hearing record. Within 30 days after receiving the report and any exceptions to it, the board shall issue a further order vacating, modifying, or making permanent the cease and desist order as the facts require.

Subd. 5. **FINALITY; EFFECT.** If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until it is modified or vacated by the board.

Subd. 6. **DEFAULT PROCEEDING.** If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true.

Presented to the governor May 14, 2001

Signed by the governor May 17, 2001, 10:33 a.m.

CHAPTER 109—S.F.No. 859

An act relating to professions; creating the Accountancy Act of 2001; authorizing rulemaking; imposing penalties; amending Minnesota Statutes 2000, sections 3.972, subdivision 1; 116J.70, subdivision 2a; 214.01, subdivision 3; 319B.02, subdivision 19; 326.53; 367.36, subdivision 1; 412.222; 471.49, subdivision 10; and 544.42, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 326A; repealing Minnesota Statutes 2000, sections 326.165; 326.1655; 326.17; 326.18; 326.19; 326.192; 326.197; 326.20; 326.201; 326.211; 326.212; 326.22; 326.223; 326.224; 326.228; and 326.229.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

REGULATION OF ACCOUNTANCY

Section 1. **TITLE.**

This act may be cited as the "Accountancy Act of 2001."

Sec. 2. **PURPOSE.**

It is the policy of this state, and the purpose of this act, to promote the reliability of information that is used for guidance in financial transactions or for accounting for, or assessing the financial status or performance of, commercial, noncommercial, and governmental enterprises. The public interest requires that persons professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information must have demonstrated their qualifications to do so, and that persons who have not demonstrated and maintained such qualifications, not be permitted to represent themselves as having such special competence or to offer such assurance; that the conduct of persons licensed or registered as having special competence in accountancy be regulated in all aspects of their professional work; that a public authority competent to prescribe and assess the qualifications and to regulate the conduct of licensees and registrants be established; and that the use of titles that have a capacity or tendency to deceive the public as to the status or competence of the persons using such titles be prohibited.

Sec. 3. **[326A.01] DEFINITIONS.**

Subdivision 1. **SCOPE.** When used in this chapter, the terms in this section have the meanings given.

Subd. 2. **ATTEST.** "Attest" means to provide the following financial statement services:

(1) an audit or other engagement performed in accordance with the Statements on Auditing Standards (SAS);

(2) a review of a financial statement performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS); and

(3) an examination of prospective financial information performed in accordance with the Statements on Standards for Attestation Engagements (SSAE).

Subd. 3. **BOARD.** "Board" means the Minnesota board of accountancy established under section 326A.02 or its predecessor under prior law.

Subd. 4. **CERTIFICATE.** "Certificate" means a certificate as a certified public accountant issued under section 326A.04, or corresponding provisions of prior law, or a corresponding certificate as certified public accountant issued after examination under the law of any other state.

Subd. 5. **CLIENT.** "Client" means a person or entity that agrees with a licensee, a person registered under section 326A.06, paragraph (b), or the person's or licensee's

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employers to receive any professional service.

Subd. 6. COMPILATION. “Compilation” means the provision of a service performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that presents in the form of financial statements information that is the representation of management or owners without undertaking to express any assurance on the statements.

Subd. 7. CPA FIRM. “CPA Firm” means a sole proprietorship, a corporation, a partnership, or any other form of organization issued a permit under section 326A.05.

Subd. 8. LICENSE. “License” means a certificate issued under section 326A.04, a permit issued under section 326A.05, or a certificate or permit issued under corresponding provisions of prior law.

Subd. 9. LICENSEE. “Licensee” means the holder of a license.

Subd. 10. MANAGER. “Manager” means a manager of a limited liability company.

Subd. 11. MEMBER. “Member” means a member of a limited liability company.

Subd. 12. PEER REVIEW. “Peer review” means a study, appraisal, or review of one or more aspects of the professional work of a certificate holder or CPA firm that performs attest or compilation services, or the professional work of a person registered under section 326A.06, paragraph (b), by a person or persons who hold certificates and who are not affiliated with the certificate holder, CPA firm, or person being reviewed.

Subd. 13. PERMIT. “Permit” means a permit to practice as a CPA firm issued under section 326A.05, or corresponding provisions of prior law, or under corresponding provisions of the laws of other states.

Subd. 14. PROFESSIONAL. “Professional” means arising out of or related to the specialized knowledge or skills associated with certified public accountants or persons registered under section 326A.06, paragraph (b).

Subd. 15. REPORT. “Report,” when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes or is accompanied by a statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term “report” includes any form of language that disclaims an opinion when the form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing the language. It includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.

Subd. 16. STATE. “State” means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam; except that “this state” means the state of Minnesota.

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Subd. 17. SUBSTANTIAL EQUIVALENCY. "Substantial equivalency" is a determination under section 326A.14 by the board of accountancy or its designee that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements contained in this chapter or that an individual CPA's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in this chapter.

Sec. 4. [326A.02] STATE BOARD OF ACCOUNTANCY.

Subdivision 1. BOARD. A board of accountancy is created to carry out the purposes and enforce the provisions of this chapter. It consists of nine citizens of this state appointed by the governor. Two must be public members as defined by section 214.02, and seven must be certified public accountants under the provisions of this chapter. Effective January 1, 2003, no fewer than five of the certified public accountants must be owners or employees of a CPA firm that holds a current permit and provides professional services at the time of appointment and reappointment. At least two of the seven certified public accountants at the time of appointment and reappointment must be owners or employees of a CPA firm that:

- (1) holds a current permit;
- (2) provides professional services; and
- (3) consists of ten or fewer certified public accountants.

Subd. 2. MEMBERSHIP CONDITIONS. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements are as provided in sections 214.07 to 214.09. The provision of staff, administrative services, and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in this chapter and chapter 214.

Any member of the board whose certificate under section 326A.04 is revoked or suspended automatically ceases to be a member of the board.

Subd. 3. OFFICERS; PROCEEDINGS. The board shall elect one of its number as chair, another as vice-chair, and another as secretary and treasurer. The officers shall hold their respective offices for a term of one year and until their successors are elected. The affirmative vote of a majority of the qualified members of the board is considered the action of the board. The board shall meet at such times and places as may be fixed by the board. Meetings of the board are subject to chapter 13D. A majority of the board members then in office constitutes a quorum at any meeting duly called. The board shall have a seal, which must be judicially noticed. The board shall retain or arrange for the retention of all applications and all documents under oath that are filed with the board and also records of its proceedings, and it shall maintain a registry of the names and addresses of all licensees and registrants under this chapter. In any proceeding in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies of records of the proceeding certified as true copies under the seal of the boards

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shall be admissible in evidence as tending to prove the contents of the records.

Subd. 4. **POWERS.** The board may issue subpoenas to compel the attendance of witnesses and the production of documents, to administer oaths, to take testimony, to cooperate with the appropriate authorities in other states in investigation and enforcement concerning violations of this chapter and comparable acts of other states, and to receive evidence concerning all matters within the scope of this chapter. In case of disobedience of a subpoena, the board may invoke the aid of any court in requiring the attendance and testimony of witnesses and the production of documentary evidence. The board, its members, and its agents are immune from personal liability for actions taken in good faith in the discharge of the board's responsibilities, and the state shall hold the board, its members, and its agents harmless from all costs, damages, and attorneys' fees arising from claims and suits against them with respect to matters to which such immunity applies. The board shall enforce the standard of general education, the standard of special education in the science and art of accounting, and the standard of good character and general experience, as prescribed in this chapter.

Subd. 5. **RULES.** The board may adopt rules governing its administration and enforcement of this chapter and the conduct of licensees and persons registered under section 326A.06, paragraph (b), including:

- (1) rules governing the board's meetings and the conduct of its business;
- (2) rules of procedure governing the conduct of investigations and hearings and discipline by the board;
- (3) rules specifying the educational and experience qualifications required for the issuance of certificates and the continuing professional education required for renewal of certificates;
- (4) rules of professional conduct directed to controlling the quality and probity of services by licensees, and dealing among other things with independence, integrity, and objectivity; competence and technical standards; and responsibilities to the public and to clients;
- (5) rules governing the professional standards applicable to licensees including adoption of the statements on standards specified in section 326A.01, subdivision 2, and as developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants;
- (6) rules governing the manner and circumstances of use of the titles "certified public accountant," "CPA," "registered accounting practitioner," and "RAP";
- (7) rules regarding peer review that may be required to be performed under provisions of this chapter;
- (8) rules on substantial equivalence to implement section 326A.14;
- (9) rules regarding the conduct of the certified public accountant examination;
- (10) rules regarding the issuance and renewals of certificates, permits, and registrations;

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(11) rules regarding transition provisions to implement this chapter;

(12) rules specifying the educational and experience qualifications for registration, rules of professional conduct, rules regarding peer review, rules governing standards for providing services, and rules regarding the conduct and content of examination for those persons registered under section 326A.06, paragraph (b); and

(13) rules regarding fees for examinations, certificate issuance and renewal, firm permits, registrations under section 326A.06, paragraph (b), notifications made under section 326A.14, and late processing fees.

Subd. 6. COMPLAINT COMMITTEE. The board shall establish a complaint committee to investigate, mediate, or initiate administrative or legal proceedings on behalf of the board with respect to complaints filed with or information received by the board alleging or indicating violations of this chapter. The complaint committee shall consist of three members of the board.

Subd. 7. EXPENSES OF ADMINISTRATION. The expenses of administering this chapter must be paid from appropriations made to the board.

Sec. 5. [326A.03] QUALIFICATIONS FOR A CERTIFICATE AS A CERTIFIED PUBLIC ACCOUNTANT.

Subdivision 1. QUALIFICATIONS. The certificate of certified public accountant shall be granted to persons of good moral character who meet the education, experience, and examination requirements of this section and rules adopted under it and who apply under section 326A.04.

Good moral character for purposes of this section means lack of a history of dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good moral character of the applicant and the professional responsibilities of a licensee and if the finding by the board of lack of good moral character is supported by clear and convincing evidence. When an applicant is found to be unqualified for a certificate because of a lack of good moral character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the applicant's right of appeal.

Subd. 2. EDUCATIONAL AND EXPERIENCE REQUIREMENTS TO TAKE EXAMINATION BEFORE JULY 1, 2006. Until July 1, 2006, the examination must be administered by the board only to a candidate who:

(1) holds a master's degree with a major in accounting from a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education;

(2) holds a baccalaureate degree, with a major in accounting, from a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education or who has in the opinion of the board at least an equivalent education;

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(3) holds a baccalaureate degree from a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education, or who has in the opinion of the board at least an equivalent education, provided that at least one year of experience of the type specified in subdivision 8 has been completed;

(4) provides evidence of having completed two or more years of study with a passing grade average or above from a college, university, technical college, or a Minnesota licensed private school that is fully accredited by a recognized accrediting agency listed with the United States Department of Education, or who has in the opinion of the board at least an equivalent education, provided that at least three years experience of the type specified in subdivision 8 has been completed; or

(5) holds a diploma as a graduate of an accredited high school, or who has in the opinion of the board at least an equivalent education, provided that at least five years experience of the type specified in subdivision 8 has been completed.

Subd. 3. EDUCATIONAL REQUIREMENTS TO TAKE EXAMINATION ON OR AFTER JULY 1, 2006. On or after July 1, 2006, the examination must be administered by the board only to a candidate who has a baccalaureate or higher degree, with a major in accounting or a major in business with accounting emphasis, or an equivalent education, from a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education or an equivalent accrediting association.

Subd. 4. EXAMINATION REQUIREMENTS. (a) The examination required to be passed as a condition for the granting of a certificate must be held as often as convenient, in the opinion of the board, and must test the applicant's knowledge of the subjects of accounting and auditing, and other related subjects that the board may specify by rule, including but not limited to business law and taxation. The time for holding the examination must be determined by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading and determining a passing grade required of an applicant for a certificate. However, the board shall to the extent possible ensure that the examination itself, grading of the examination, and the passing grades, are uniform with those applicable in all other states. The board may make such use of all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants and may contract with third parties to perform administrative services with respect to the examination that it considers appropriate to assist it in performing its duties under this paragraph.

(b) The board may charge, or provide for a third party administering the examination to charge, each applicant a fee.

Subd. 5. EXPERIENCE REQUIREMENTS FOR CERTIFICATE BEFORE JULY 1, 2006. Until July 1, 2006, those persons who have passed the examination required by this section and who meet all other requirements for a certificate, including payment of required fees, must be granted certificates as certified public accountants,

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providing that they have completed the following experience requirements of the type specified in subdivision 8 in addition to any experience already required in subdivision 2:

(1) for those whose educational qualifications meet the requirements of subdivision 2, clause (1), the experience requirement is one year;

(2) for those whose educational qualifications meet the requirements of subdivision 2, clause (2), the experience requirement is two years;

(3) for those whose educational and experience qualifications meet the requirements of subdivision 2, clause (3), the additional required experience is two years;

(4) for those whose educational and experience qualifications meet the requirements of subdivision 2, clause (4), the additional required experience is two years; and

(5) for those whose educational and experience qualifications meet the requirements of subdivision 2, clause (5), the additional required experience is one year.

Subd. 6. EXPERIENCE AND EDUCATIONAL REQUIREMENTS FOR CERTIFICATE ON OR AFTER JULY 1, 2006. (a) On or after July 1, 2006, those persons who have passed the examination required in this section must be granted certificates as certified public accountants provided they certify to the board that they have completed at least 150 semester or 225 quarter hours at a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education, or an equivalent accrediting association, and have completed at least one year of experience of the type specified in paragraph (b).

(b) An applicant for initial issuance of a certificate under this subdivision shall show that the applicant has had one year of experience. Acceptable experience includes providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, as verified by a licensee and meeting requirements prescribed by the board by rule. Acceptable experience may be gained through employment in government, industry, academia, or public practice. Experience as an auditor in the office of the legislative auditor or state auditor, as verified by a licensee, shall be acceptable experience.

Subd. 7. EQUIVALENT EDUCATION CRITERIA. The board, in consultation with the University of Minnesota, the Minnesota state colleges and universities, private colleges, and private career schools regulated under chapter 141, shall establish criteria to assess equivalent education for purposes of subdivision 3.

Subd. 8. QUALIFYING EXPERIENCE UNTIL JULY 1, 2006. Until July 1, 2006, qualifying experience includes public accounting experience:

(1) as a staff employee of a certified public accountant, or a firm;

(2) as an auditor in the office of the legislative auditor or state auditor, or as an auditor of examiner with any other agency of government, if the experience, in the opinion of the board, is equally comprehensive and diversified;

(3) as a self-employed public accountant or as a partner in a firm; or

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(4) in any combination of the foregoing capacities.

Sec. 6. [326A.04] ISSUANCE AND RENEWAL OF CERTIFICATES, AND MAINTENANCE OF COMPETENCY.

Subdivision 1. ELIGIBILITY. The board shall grant or renew certificates to persons who make application and demonstrate:

(1) that their qualifications, including where applicable the qualifications prescribed by section 326A.03, are in accordance with this section; or

(2) that they are eligible under the substantial equivalency standard in section 326A.14, subdivision 1, paragraph (b), which requires licensure for those certified public accountants who establish their principal places of business in another state. The holder of a certificate issued under this section may only provide attest services in a CPA firm that holds a permit issued under section 326A.05.

Subd. 2. TIMING. (a) Certificates must be initially issued and renewed for periods of not more than one year but in any event must expire on the December 31 following issuance or renewal. Applications for certificates must be made in the form, and in the case of applications for renewal between the dates, specified by the board in rule. The board shall grant or deny an application no later than 90 days after the application is filed in proper form. If the applicant seeks the opportunity to show that issuance or renewal of a certificate was mistakenly denied, or if the board is unable to determine whether it should be granted or denied, the board may issue to the applicant a provisional certificate that expires 90 days after its issuance, or when the board determines whether or not to issue or renew the certificate for which application was made, whichever occurs first.

(b) Certificate holders who do not provide professional services and do not use the certified public accountant designation in any manner are not required to renew their certificates provided they have notified the board as provided in board rule and comply with the requirements for nonrenewal as specified in board rule.

Subd. 3. RESIDENTS OF OTHER STATES. (a) With regard to applicants who do not qualify for reciprocity under the substantial equivalency standard in section 326A.14, subdivision 1, paragraph (b), the board shall issue a certificate to a holder of a certificate, license, or permit issued by another state upon a showing that:

(1) the applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;

(2) the applicant had four years of experience outside of this state of the type described in section 326A.03, subdivision 6, paragraph (b), if application is made on or after July 1, 2006, or section 326A.03, subdivision 8, if application is made before July 1, 2006; or the applicant meets equivalent requirements prescribed by the board by rule, after passing the examination upon which the applicant's certificate was based and within the ten years immediately preceding the application; and

(3) if the applicant's certificate, license, or permit was issued more than four years prior to the application for issuance of an initial certificate under this subdivision, that

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the applicant has fulfilled the requirements of continuing professional education that would have been applicable under subdivision 4.

(b) As an alternative to the requirements of paragraph (a), a certificate holder licensed by another state who establishes a principal place of business in this state shall request the issuance of a certificate from the board prior to establishing the principal place of business. The board shall issue a certificate to the person if the person's individual certified public accountant qualifications, upon verification, are substantially equivalent to the certified public accountant licensure requirements of this chapter.

Subd. 4. PROGRAM OF LEARNING. For renewal of a certificate under this section, each licensee shall participate in a program of learning designed to maintain professional competency. The program of learning must comply with rules adopted by the board. The board may by rule create an exception to this requirement for licensees who do not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. A licensee granted such an exception by the board must place the word "inactive" adjacent to the CPA title on any business card, letterhead, or any other document or device, with the exception of the licensee's certificate on which the CPA title appears.

Subd. 5. FEE. The board shall charge a fee for each application for initial issuance or renewal of a certificate under this section.

Subd. 6. OTHER STATE LICENSES. Applicants for initial issuance or renewal of certificates under this section shall in their applications list all states in which they have applied for or hold certificates, licenses, or permits and list any past denial, revocation, or suspension of a certificate, license, or permit. Each holder of or applicant for a certificate under this section shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation, or suspension of a certificate, license, or permit by another state.

Subd. 7. CERTIFICATES ISSUED BY FOREIGN COUNTRIES. The board shall issue a certificate to a holder of a substantially equivalent foreign country designation, provided that:

(1) the foreign authority that granted the designation makes similar provision to allow a person who holds a valid certificate issued by this state to obtain the foreign authority's comparable designation;

(2) the foreign designation:

(i) was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;

(ii) entitles the holder to issue reports upon financial statements; and

(iii) was issued upon the basis of educational, examination, and experience requirements established by the foreign authority or by law; and

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(3) the applicant:

(i) received the designation, based on educational and examination standards substantially equivalent to those in effect in this state, at the time the foreign designation was granted;

(ii) has, within the ten years immediately preceding the application, completed an experience requirement that is substantially equivalent to the requirement in section 326A.03, subdivision 6, paragraph (b), if application is made on or after July 1, 2006, or section 326A.03, subdivision 8, if application is made before July 1, 2006, in the jurisdiction that granted the foreign designation; completed four years of professional experience in this state; or met equivalent requirements prescribed by the board by rule; and

(iii) passed a uniform qualifying examination in national standards and an examination on the laws, regulations, and code of ethical conduct in effect in this state acceptable to the board.

Subd. 8. OTHER JURISDICTIONS IN WHICH FOREIGN APPLICANT IS LICENSED. An applicant under subdivision 7 shall in the application list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy. Each holder of a certificate issued under subdivision 7 shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation, or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

Subd. 9. APPLICATION BY FOREIGN CERTIFICATE HOLDER. The board has the sole authority to interpret the application of the provisions of subdivisions 7 and 8.

Subd. 10. PEER REVIEW. The board shall by rule require as a condition for renewal of a certificate under this section by any certificate holder who performs compilation services for the public other than through a CPA firm, that the individual undergo, no more frequently than once every three years, a peer review conducted in a manner specified by the board in rule. The review shall include verification that the individual has met the competency requirements set out in professional standards for the services described in this subdivision as set forth by rule.

Subd. 11. AUTOMATIC REVOCATION. The certificates of persons who fail to renew their certificates for more than two years after expiration shall be automatically revoked by order of the board. The orders may be issued by the board without following the procedures of chapter 14, provided the board notifies each such person by mail at the person's last known address on file with the board at least three days prior to the issuance of any such order. No notice is required if the last communication sent by the board to a licensee was returned to the board by the United States Postal Service as undeliverable and with no forwarding address. Certificates so revoked by the board may be reinstated, if at all, under section 326A.09. This subdivision does not apply to certified public accountants who have notified the board that they will not use the CPA designation in any manner and will not provide professional services.

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Sec. 7. [326A.05] CPA FIRM PERMITS TO PRACTICE, ATTEST AND COMPILATION COMPETENCY, AND PEER REVIEW.

Subdivision 1. **GENERAL.** The board shall grant or renew permits to practice as a CPA firm to entities that make application and demonstrate their qualifications in accordance with this section. A firm must hold a permit issued under this section in order to provide attest services or to use the title "CPAs" or "CPA firm."

Subd. 2. **TIMING.** Permits must be initially issued and renewed for periods of not more than one year but in any event must expire on December 31 following issuance or renewal. Applications for permits shall be made in the form, and in the case of applications for renewal between the dates, as the board specifies in rule. The board shall grant or deny an application no later than 90 days after the application is filed in proper form. If the applicant seeks the opportunity to show that issuance or renewal of a permit was mistakenly denied or if the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional permit, which expires 90 days after its issuance, or when the board determines whether or not to issue or renew the permit for which application was made, whichever occurs first.

Subd. 3. **QUALIFICATIONS.** (a) An applicant for initial issuance or renewal of a permit to practice under this section shall comply with the requirements in this subdivision.

(b) Notwithstanding chapter 319B or any other provision of law, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers, must belong to holders of certificates who are licensed in some state, and the partners, officers, shareholders, members, or managers, whose principal place of business is in this state, and who perform professional services in this state, must hold valid certificates issued under section 326A.04 or the corresponding provision of prior law. Although firms may include nonlicensee owners, the firm and its ownership must comply with rules adopted by the board. The firm shall register all nonlicensee owners with the state board as set forth by rule.

(c) A CPA firm may include nonlicensee owners provided that:

(1) the firm designates a licensee of this state, who is responsible for the proper registration of the firm and identifies that individual to the board;

(2) all nonlicensee owners are active individual participants in the CPA firm or affiliated entities; and

(3) the firm complies with other requirements imposed by the board in rule.

(d) An individual licensee who is responsible for supervising attest or compilation services and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm, shall meet the competency requirements set out in the professional standards for such services.

(e) An individual licensee who signs or authorizes someone to sign the accountants' report on the financial statements on behalf of the firm shall meet the competency requirement of paragraph (d).

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Subd. 4. **INITIAL ISSUANCE OR RENEWAL.** An applicant for initial issuance or renewal of a permit to practice under this section shall register each office of the firm within this state with the board and to show that all attest and compilation services rendered in this state are under the charge of a person holding a valid certificate, or the corresponding provision of prior law.

Subd. 5. **FEES.** The board shall charge a fee for each application for initial issuance or renewal of a permit under this section.

Subd. 6. **OTHER JURISDICTIONS IN WHICH APPLICANT HOLDS A PERMIT.** An applicant for initial issuance or renewal of permits under this section shall in the applicant's application list all states in which the applicant has applied for or holds permits as a CPA firm and list any past denial, revocation, or suspension of a permit by any other state. Each holder of or applicant for a permit under this section shall notify the board in writing, within 30 days after its occurrence, of any change in the identities of partners, officers, shareholders, members, or managers whose principal place of business is in this state, any change in the number or location of offices within this state, any change in the identity of the persons in charge of such offices, and any issuance, denial, revocation, or suspension of a permit by any other state.

Subd. 7. **CORRECTIVE ACTIONS, REVOCATION.** Firms that fall out of compliance with the provisions of the section due to changes in firm ownership or personnel, after receiving or renewing a permit, shall take corrective action to bring the firm back in to compliance as quickly as possible. Failure to bring the firm back into compliance within a reasonable period as defined by the board rule shall result in the suspension or revocation of the firm permit.

Subd. 8. **PEER REVIEW; RULES.** (a) The board shall by rule require as a condition to renewal of permits under this section, that applicants undergo, no more frequently than once every three years, peer reviews conducted in a manner specified by the board. The review must include a verification that individuals in the firm who are responsible for supervising attest and compilation services and who sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the competency requirements set out in the professional standards for such services. In addition, the rules must meet the requirements in paragraphs (b) to (d).

(b) The rules must be adopted reasonably in advance of the time when they first become effective.

(c) The rules must include reasonable provision for compliance by an applicant showing that it has, within the preceding three years, undergone a peer review that is a satisfactory equivalent to peer review generally required pursuant to this subdivision.

(d) The rules must require, with respect to peer reviews contemplated by paragraph (c), that they be subject to oversight by an oversight body established or sanctioned by board rule. This body shall periodically report to the board on the effectiveness of the review program under its charge, and provide to the board a listing of firms that have participated in a peer review program that is satisfactory to the board.

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(e) The rules must require, with respect to peer reviews contemplated by paragraph (c), that the peer review processes be operated and documents maintained in a manner designed to preserve confidentiality, and that neither the board nor any third party, other than the oversight body, has access to documents furnished or generated in the course of the review. The applicant shall submit to the board reports and letters received at the conclusion of the peer review process as provided for in board rule.

Subd. 9. COOPERATIVE AUDITING ORGANIZATION. Any cooperative auditing organization organized under chapter 308A is qualified for a cooperative auditing service license and may style itself as a licensed cooperative auditing service if:

(1) for a minimum of one year prior to July 1, 1979, it rendered auditing or accounting of business analysis services to its members only; and

(2) its managers in charge of offices maintained in this state are certified public accountants of this state.

Cooperative auditing services shall comply with all requirements imposed on CPA firms and the board's rules governing firms.

Sec. 8. [326A.06] LICENSED PUBLIC ACCOUNTANTS AND REGISTERED ACCOUNTING PRACTITIONERS.

(a) All licensed public accountants (LPA) who are actively licensed by the state board on December 31, 2002, shall be issued a certified public accountant certificate. LPA's are those accountants who were eligible for licensure on July 1, 1979, under the law in effect on that date and who were issued a license as a licensed public accountant by the board at that time.

(b) By July 1, 2004, the board shall implement a voluntary registration of accounting practitioners. The board shall prescribe by rule the limitations of practice, educational preparation, examination, registration, fees, peer review, and continuing education requirements for the registration. The board shall consult with the University of Minnesota, the Minnesota state colleges and universities, the Minnesota association of private post-secondary schools, the private college council, the Minnesota association of public accountants, and other organizations as appropriate in the implementation of this section.

Sec. 9. [326A.07] APPOINTMENT OF SECRETARY OF STATE AS AGENT.

Application by a person or a firm not a resident of this state for a certificate or a permit shall constitute appointment of the secretary of state as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to services performed by the applicant while a licensee within this state.

Sec. 10. [326A.08] ENFORCEMENT.

Subdivision 1. BASIS FOR CONDUCTING INVESTIGATIONS. If the board, or the complaint committee if authorized by the board, has a reasonable basis to believe

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that a person or firm has engaged in or is about to engage in a violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board, or the complaint committee if authorized by the board, may proceed as described in this section. The board may, upon receipt of a complaint or other information suggesting violations of this chapter or of the rules of the board, conduct investigations to determine whether there is reasonable basis to institute proceedings under this section against any person or firm for such violations. The investigation is not a prerequisite to such proceedings in the event that a determination can be made without investigation.

Subd. 2. HEARINGS CONDUCTED UNDER CHAPTER 14. Except as otherwise described in this section, all hearings shall be conducted in accordance with chapter 14.

Subd. 3. LEGAL ACTION. (a) When necessary to prevent an imminent violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board, or the complaint committee if authorized by the board, may bring an action in the name of the state in the district court in Ramsey county, when necessary to prevent imminent harm to the public, or in any county in which jurisdiction is proper to enjoin the act or practice and to enforce compliance with the statute, rule, or order. Upon a showing that a person or firm has engaged in or is about to engage in an act or practice constituting a violation of a statute, rule, or order that the board has issued or is empowered to enforce, a permanent or temporary injunction, restraining order, or other appropriate relief shall be granted.

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person or firm has engaged in or is about to engage in an act or practice constituting a violation of a statute, rule, or order that the board has issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person or firm from criminal prosecution from a competent authority or from action by the board pursuant to subdivisions 4 to 7 with respect to the person's or firm's certificate, permit, registration, or practice privileges granted under section 326A.14 or application for examination, certificate, registration, permit, or renewal or notification for practice privileges granted under section 326A.14.

Subd. 4. CEASE AND DESIST ORDERS. (a) The board, or the complaint committee if authorized by the board, may issue and have served upon a certificate holder, a permit holder, a registration holder, a person with practice privileges granted under section 326A.14 who has previously been subject to a disciplinary order by the board, or an unlicensed firm or person an order requiring the person or firm to cease and desist from the act or practice constituting a violation of the statute, rule, or order. The order must be calculated to give reasonable notice of the rights of the person or firm to request a hearing and must state the reasons for the entry of the order. No order may be issued until an investigation of the facts has been conducted pursuant to section 214.10.

(b) Service of the order is effective when the order is served on the person, firm, or counsel of record personally, or by certified mail to the most recent address provided

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to the board for the person, firm, or counsel of record.

(c) Unless otherwise agreed by the board, or the complaint committee if authorized by the board, and the person or firm requesting the hearing, the hearing must be held no later than 30 days after the request for the hearing is received by the board.

(d) The administrative law judge shall issue a report within 30 days of the close of the contested case hearing record, notwithstanding Minnesota Rules, part 1400.8100, subpart 3. Within 30 days after receiving the report and any exceptions to it, the board shall issue a further order vacating, modifying, or making permanent the cease and desist orders as the facts require.

(e) If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until it is modified or vacated by the board.

(f) If the person or firm to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person or firm is in default and the proceeding may be determined against that person or firm upon consideration of the cease and desist order, the allegations of which may be considered to be true.

(g) In lieu of or in addition to the order provided in paragraph (a), the board may require the person or firm to provide to the board a true and complete list of the person's or firm's clientele so that they can, if deemed necessary, be notified of the board's action. Failure to do so, or to provide an incomplete or inaccurate list, is an act discreditable.

Subd. 5. ACTIONS AGAINST PERSONS OR FIRMS. (a) The board may, by order, deny, refuse to renew, suspend, temporarily suspend, or revoke the application, or practice privileges, registration or certificate of a person or firm; censure or reprimand the person or firm; prohibit the person or firm from preparing tax returns or reporting on financial statements; refuse to permit a person to sit for examination; or refuse to release the person's examination grades if the board finds that the order is in the public interest and that, based on a preponderance of the evidence presented, the person or firm:

(1) has violated a statute, rule, or order that the board has issued or is empowered to enforce;

(2) has engaged in conduct or acts that are fraudulent, deceptive, or dishonest whether or not the conduct or acts relate to performing or offering to perform professional services, providing that the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's or firm's ability or fitness to provide professional services;

(3) has engaged in conduct or acts that are negligent or otherwise in violation of the standards established by board rule, where the conduct or acts relate to providing professional services;

(4) has been convicted of, has pled guilty or nolo contendere to or has been sentenced as a result of the commission of a felony or crime, an element of which is

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dishonesty or fraud; has been shown to have or admitted to having engaged in acts or practices tending to show that the person or firm is incompetent; or has engaged in conduct reflecting adversely on the person's or firm's ability or fitness to provide professional services, whether or not a plea was entered or withheld;

(5) employed fraud or deception in obtaining a certificate, permit, registration, practice privileges, renewal, or reinstatement or in passing all or a portion of the examination;

(6) has had the person's or firm's permit, registration, practice privileges, certificate, right to examine, or other similar authority revoked, suspended, canceled, limited, or not renewed for cause, or has committed unprofessional acts for which the person or firm was otherwise disciplined or sanctioned, including, but not limited to, being ordered to or agreeing to cease and desist from prescribed conduct, in any state or any foreign country;

(7) has had the person's or firm's right to practice before any federal, state, or other government agency revoked, suspended, canceled, limited, or not renewed for cause, or has committed unprofessional acts for which the person or firm was otherwise disciplined or sanctioned, including, but not limited to, being ordered to or agreeing to cease and desist from prescribed conduct;

(8) failed to meet any requirement for the issuance or renewal of the person's or firm's certificate, registration or permit, or for practice privileges;

(9) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that may result or may have resulted, in the opinion of the board or the complaint committee if authorized by the board, in an immediate threat to the public; or

(10) has engaged in any conduct reflecting adversely upon the person's or firm's fitness to perform services while a licensee, individual granted privileges under section 326A.14, or a person registered under section 326A.06, paragraph (b).

(b) In lieu of or in addition to any remedy provided in paragraph (a), the board may require, as a condition of continued possession of a certificate, a registration or practice privileges, termination of suspension, reinstatement of permit, registration of a person or firm or of practice privileges under section 326A.14, a certificate, an examination, or release of examination grades, that the person or firm:

(1) submit to a peer review of the person's or firm's ability, skills, or quality of work, conducted in a fashion and by persons, entity, or entities as required by the board; and

(2) complete to the satisfaction of the board continuing professional education courses specified by the board.

(c) Service of the order is effective if the order is served on the person, firm, or counsel of record personally or by certified mail to the most recent address provided to the board for the person, firm, or counsel of record. The order shall state the reasons for the entry of the order.

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(d) All hearings required by this subdivision must be conducted in accordance with chapter 14 except with respect to temporary suspension orders as provided for in subdivision 6.

(e) In addition to the remedies authorized by this subdivision, the board may enter into an agreement with the person or firm for corrective action and may unilaterally issue a warning to a person or firm.

(f) The board shall not use agreements for corrective action or warnings in any situation where the person or firm has been convicted of or pled guilty or nolo contendere to a felony or crime and the felony or crime is the basis of the board's action against the person or firm, where the conduct of the person or firm indicates a pattern of related violations of paragraph (a) or the rules of the board, or where the board concludes that the conduct of the person or firm will not be deterred other than by disciplinary action under this subdivision or subdivision 4 or 6.

(g) Agreements for corrective action may be used by the board, or the complaint committee if authorized by the board, where the violation committed by the person or firm does not warrant disciplinary action pursuant to this subdivision or subdivision 4 or 6, but where the board, or the complaint committee if authorized by the board, determines that corrective action is required to prevent further such violations and to otherwise protect the public. Warnings may be used by the board, or the complaint committee if authorized by the board, where the violation of the person or firm is de minimus, does not warrant disciplinary action under this subdivision or subdivision 4 or 6, and does not require corrective action to protect the public.

(h) Agreements for corrective action must not be considered disciplinary action against the person's or firm's application, permit, registration or certificate, or practice privileges under section 326A.14. However, agreements for corrective action are public data. Warnings must not be considered disciplinary action against the person's or firm's application, permit, registration, or certificate or person's practice privileges and are private data.

Subd. 6. PROCEDURE FOR TEMPORARY SUSPENSION OF PERMIT, REGISTRATION, OR CERTIFICATE OR PRACTICE PRIVILEGES. (a) When the board, or the complaint committee if authorized by the board, issues a temporary suspension order, the suspension is in effect upon service of a written order on the person, firm, or counsel of record, specifying the statute, rule, or order violated. The order remains in effect until the board issues a final order in the matter after a hearing or upon agreement between the board and the person or firm.

(b) The order may prohibit the person or firm from providing professional services in whole or in part, as the facts may require, and may condition the end of such suspension on compliance with a statute, rule, or order that the board has issued or is empowered to enforce.

(c) The order must set forth the rights to hearing contained in this section and must state the reasons for the entry of order.

(d) Within ten days after service of the order, the person or firm may request a hearing in writing. The board shall hold a hearing before its own members within five

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working days of a receipt of a request for hearing or within five working days of receipt of a request for hearing on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. This hearing is not subject to chapter 14. Evidence presented by the board or the person or firm shall be in affidavit form only. The person, firm, or counsel of record may appear for oral argument.

(e) Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 30 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record, notwithstanding the provisions of Minnesota Rules, part 1400.8100, subpart 3. The board shall issue a final order within 30 days after receipt of that report.

Subd. 7. VIOLATION; PENALTIES; COSTS OF PROCEEDING. (a) The board may impose a civil penalty not to exceed \$2,000 per violation upon a person or firm that violates an order, statute, or rule that the board has issued or is empowered to enforce.

(b) The board may, in addition, impose a fee to reimburse the board for all or part of the cost of the proceedings, including reasonable investigative costs, resulting in disciplinary or corrective action authorized by this section, the imposition of civil penalties, or the issuance of a cease and desist order. The fee may be imposed when the board shows that the position of the person or firm that violates a statute, rule, or order that the board has issued or is empowered to enforce is not substantially justified, unless special circumstances make an award unjust, notwithstanding the provisions of Minnesota Rules, part 1400.8401. The costs include, but are not limited to, the amount paid by the board for services from the office of administrative hearings, attorney and reasonable investigative fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff.

(c) All hearings required by this subdivision must be conducted in accordance with chapter 14.

Subd. 8. PERSONS AND ENTITIES SUBJECT TO DISCIPLINE. Any person or entity who prepares or reports on financial statements or schedules for a client for a fee is subject to this section and the practice of the person or entity may be disciplined by the boards as provided for in this section. The board may discipline a person or entity based on violations of this chapter, the board's rules, or misrepresentations made by the person or entity regarding the work the person or entity performed.

Subd. 9. NOTIFICATION OF OTHER STATES. In any case where the board renders a decision imposing discipline against a person or firm, the board shall examine its records to determine whether the person or firm holds a certificate or a permit in any other state. If so, the board shall notify the board of accountancy of the other state of its decision, by mail, within 45 days of the decision becoming final.

Sec. 11. [326A.09] REINSTATEMENT.

The board may reinstate a suspended, revoked, or surrendered certificate, registration, or permit or suspended, revoked, or surrendered practice privileges upon

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petition of the person or firm holding or formerly holding the registration, permit, or certificate, or practice privileges. The board may, in its sole discretion, require that the person or firm submit to the board evidence of having obtained up to 120 hours of continuing professional education credits that would have been required had the person or firm held a registration, certificate, permit, or practice privileges continuously. The board may, in its sole discretion, place any other conditions upon reinstatement of a suspended, revoked, or surrendered certificate, permit, registration, or of practice privileges that it finds appropriate and necessary to ensure that the purposes of this chapter are met. No suspended certificate, registration, permit, or practice privileges may be reinstated until the former holder, or person with practice privileges has completed one-half of the suspension.

Sec. 12. [326A.10] UNLAWFUL ACTS.

(a) Only a licensee may issue a report on financial statements of any person, firm, organization, or governmental unit that results from providing attest services, or offer to render or render any attest service. Only a certified public accountant, a CPA firm, or, to the extent permitted by board rule, a person registered under section 326A.06, paragraph (b), may issue a report on financial statements of any person, firm, organization, or governmental unit that results from providing compilation services or offer to render or render any compilation service. These restrictions do not prohibit any act of a public official or public employee in the performance of that person's duties or prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports on them. Nonlicensees may prepare financial statements and issue nonattest transmittals or information on them which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS). Nonlicensees registered under section 326A.06, paragraph (b), may, to the extent permitted by board rule, prepare financial statements and issue nonattest transmittals or information on them.

(b) Licensees performing attest or compilation services must provide those services in accordance with professional standards. To the extent permitted by board rule, registered accounting practitioners performing compilation services must provide those services in accordance with standards specified in board rule.

(c) A person who does not hold a valid certificate issued under section 326A.04 shall not use or assume the title "certified public accountant," the abbreviation "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant.

(d) A firm shall not provide attest services or assume or use the title "certified public accountants," the abbreviation "CPAs," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is a CPA firm unless (1) the firm holds a valid permit issued under section 326A.05, and (2) ownership of the firm is in accordance with this chapter and rules adopted by the board.

(e) A person or firm that does not hold a valid certificate or permit issued under section 326A.04 or 326A.05 shall not assume or use the title "certified accountant,"

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“chartered accountant,” “enrolled accountant,” “licensed accountant,” “registered accountant,” “accredited accountant,” “accounting practitioner,” “public accountant,” “licensed public accountant,” or any other title or designation likely to be confused with the title “certified public accountant,” or use any of the abbreviations “CA,” “LA,” “RA,” “AA,” “PA,” “AP,” “LPA,” or similar abbreviation likely to be confused with the abbreviation “CPA.” The title “enrolled agent” or “EA” may only be used by individuals so designated by the Internal Revenue Service.

(f) Persons registered under section 326A.06, paragraph (b), may use the title “registered accounting practitioner” or the abbreviation “RAP.” A person who does not hold a valid registration under section 326A.06, paragraph (b), shall not assume or use such title or abbreviation.

(g) Except to the extent permitted in paragraph (a), nonlicensees may not use language in any statement relating to the financial affairs of a person or entity that is conventionally used by licensees in reports on financial statements. In this regard, the board shall issue by rule safe harbor language that nonlicensees may use in connection with such financial information. A person or firm that does not hold a valid certificate or permit, or a registration issued under section 326A.04, 326A.05, or 326A.06, paragraph (b), shall not assume or use any title or designation that includes the word “accountant” or “accounting” in connection with any other language, including the language of a report, that implies that the person or firm holds such a certificate, permit, or registration or has special competence as an accountant. A person or firm that does not hold a valid certificate or permit issued under section 326A.04 or 326A.05 shall not assume or use any title or designation that includes the word “auditor” in connection with any other language, including the language of a report, that implies that the person or firm holds such a certificate or permit or has special competence as an auditor. However, this paragraph does not prohibit any officer, partner, member, manager, or employee of any firm or organization from affixing that person’s own signature to any statement in reference to the financial affairs of such firm or organization with any wording designating the position, title, or office that the person holds, nor prohibit any act of a public official or employee in the performance of the person’s duties as such.

(h) No person holding a certificate or registration or firm holding a permit under this chapter shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter. However, names of one or more former partners, members, managers, or shareholders may be included in the name of a firm or its successor.

(i) Paragraphs (a) to (h) do not apply to a person or firm holding a certification, designation, degree, or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in that country, if:

(1) the activities of the person or firm in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement;

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(2) the person or firm performs no attest or compilation services and issues no reports with respect to the financial statements of any other persons, firms, or governmental units in this state; and

(3) the person or firm does not use in this state any title or designation other than the one under which the person practices in the foreign country, followed by a translation of the title or designation into English, if it is in a different language, and by the name of the country.

(j) No holder of a certificate issued under section 326A.04 may perform attest services through any business form that does not hold a valid permit issued under section 326A.05.

(k) No individual licensee may issue a report in standard form upon a compilation of financial information through any form of business that does not hold a valid permit issued under section 326A.05, unless the report discloses the name of the business through which the individual is issuing the report, and the individual:

(1) signs the compilation report identifying the individual as a certified public accountant;

(2) meets the competency requirement provided in applicable standards; and

(3) undergoes no less frequently than once every three years, a peer review conducted in a manner specified by the board in rule, and the review includes verification that the individual has met the competency requirements set out in professional standards for such services.

(l) No person registered under section 326A.06, paragraph (b), may issue a report in standard form upon a compilation of financial information unless the board by rule permits the report and the person:

(1) signs the compilation report identifying the individual as a registered accounting practitioner;

(2) meets the competency requirements in board rule; and

(3) undergoes no less frequently than once every three years a peer review conducted in a manner specified by the board in rule, and the review includes verification that the individual has met the competency requirements in board rule.

(m) Nothing in this section prohibits a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law.

(n) Notwithstanding other provisions of this section, persons preparing unaudited financial statements under corresponding provisions of prior law shall be permitted to perform compilation services until six months after the board adopts rules under section 326A.06.

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Sec. 13. [326A.11] SINGLE ACT EVIDENCE OF PRACTICE.

In any action brought under section 326A.08, evidence of the commission of a single act prohibited by this chapter is sufficient to justify a penalty, injunction, restraining order, or conviction, respectively, without evidence of a general course of conduct.

Sec. 14. [326A.12] CONFIDENTIAL COMMUNICATIONS.

(a) Except by permission of the client for whom a licensee performs services or the heirs, successors, or personal representatives of the client, a licensee shall not voluntarily disclose information communicated to the licensee by the client relating to and in connection with services rendered to the client by the licensee. Nothing in this section may be construed to prohibit:

(1) the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements; or

(2) disclosures in court proceedings, in investigations or proceedings under section 326A.08, in ethical investigations conducted by private professional organizations, in the course of peer reviews, to other persons active in the organization performing services for that client on a need-to-know basis, or to persons in the entity who need this information for the sole purpose of assuring quality control.

(b) This section also applies to persons registered under section 326A.06, paragraph (b).

Sec. 15. [326A.13] WORKING PAPERS; CLIENTS' RECORDS.

(a) Subject to the provisions of section 326A.12, all statements, records, schedules, working papers, and memoranda made by a licensee or a partner, shareholder, officer, director, member, manager, or employee of a licensee, incident to, or in the course of, rendering services to a client while a licensee, except the reports submitted by the licensee to the client and except for records that are part of the client's records, remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No statement, record, schedule, working paper, or memorandum may be sold, transferred, or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners, stockholders, members or new partners, new stockholders, new members of the licensee, or any combined or merged firm or successor in interest to the licensee. Nothing in this section may be construed as prohibiting any temporary transfer of workpapers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to section 326A.12.

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

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

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

(c) Nothing in this section requires a licensee to keep any work paper beyond the period prescribed in any other applicable statute.

(d) This section also applies to persons registered under section 326A.06, paragraph (b).

Sec. 16. [326A.14] SUBSTANTIAL EQUIVALENCY.

Subdivision 1. REQUIREMENTS. (a) An individual whose principal place of business is not in this state and who has a valid certificate or license as a certified public accountant from any state which, upon verification, is in substantial equivalence with the certified public accountant licensure requirements of this chapter shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of certificate holders and licensees of this state without the need to obtain a certificate or permit. However, such individuals shall notify the board of their intent to enter the state under this provision as provided for in board rule and pay the required fee.

(b) An individual whose principal place of business is not in this state and who has a valid certificate or license as a certified public accountant from any state whose certified public accountant licensure qualifications, upon verification, are not substantially equivalent with the licensure requirements of this chapter shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of certificate holders and licensees of this state without the need to obtain a certificate or permit if the individual obtains verification, as specified in board rule, that the individual's qualifications are substantially equivalent to the licensure requirements of this chapter. Such individuals shall notify the board of their intent to enter the state under this provision as provided for in board rule and pay the required fee.

(c) Any licensee of another state exercising the privilege afforded under this section consents, as a condition of the grant of this privilege:

(1) to the personal and subject matter jurisdiction and disciplinary authority of the board;

(2) to comply with this chapter and the board's rules; and

(3) to the appointment of the state board that issued the license as the licensee's agent upon whom process may be served in any action or proceeding by this board against the licensee.

Subd. 2. USE OF TITLE IN ANOTHER STATE. A licensee of this state offering or rendering services or using the CPA title in another state is subject to the same disciplinary action in this state for which the licensee would be subject to discipline for an act committed in the other state. The board shall investigate any

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complaint made by the board of accountancy of another state.

Sec. 17. **TRANSITIONAL PROVISIONS FOR BOARD MEMBERS.**

Notwithstanding Minnesota Statutes, section 326A.02, members of the board of accountancy who were appointed to the board prior to January 1, 2003, may complete their terms. Appointments made on or after January 1, 2003, are governed by Minnesota Statutes, section 326A.02.

Sec. 18. **REPEALER.**

Minnesota Statutes 2000, sections 326.165; 326.1655; 326.17; 326.18; 326.19; 326.192; 326.197; 326.20; 326.201; 326.211; 326.212; 326.22; 326.223; 326.224; 326.228; and 326.229, are repealed.

Sec. 19. **EFFECTIVE DATE.**

This article is effective January 1, 2003.

ARTICLE 2

CONFORMING CHANGES

Section 1. Minnesota Statutes 2000, section 3.972, subdivision 1, is amended to read:

Subdivision 1. **PUBLIC ACCOUNTANT.** For the purposes of this section, "public accountant" means a certified public accountant, or certified public accounting firm, or a licensed public accountant licensed by the board of accountancy under sections ~~326.17 to 326.229~~ chapter 326A.

Sec. 2. Minnesota Statutes 2000, section 116J.70, subdivision 2a, is amended to read:

Subd. 2a. **LICENSE; EXCEPTIONS.** "Business license" or "license" does not include the following:

(1) any occupational license or registration issued by a licensing board listed in section 214.01 or any occupational registration issued by the commissioner of health pursuant to section 214.13;

(2) any license issued by a county, home rule charter city, statutory city, township, or other political subdivision;

(3) any license required to practice the following occupation regulated by the following sections:

(i) abstracters regulated pursuant to chapter 386;

(ii) accountants regulated pursuant to chapter ~~326~~ 326A;

(iii) adjusters regulated pursuant to chapter 72B;

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- (iv) architects regulated pursuant to chapter 326;
- (v) assessors regulated pursuant to chapter 270;
- (vi) athletic trainers regulated pursuant to chapter 148;
- (vii) attorneys regulated pursuant to chapter 481;
- (viii) auctioneers regulated pursuant to chapter 330;
- (ix) barbers regulated pursuant to chapter 154;
- (x) beauticians regulated pursuant to chapter 155A;
- (xi) boiler operators regulated pursuant to chapter 183;
- (xii) chiropractors regulated pursuant to chapter 148;
- (xiii) collection agencies regulated pursuant to chapter 332;
- (xiv) cosmetologists regulated pursuant to chapter 155A;
- (xv) dentists, registered dental assistants, and dental hygienists regulated pursuant to chapter 150A;
- (xvi) detectives regulated pursuant to chapter 326;
- (xvii) electricians regulated pursuant to chapter 326;
- (xviii) mortuary science practitioners regulated pursuant to chapter 149A;
- (xix) engineers regulated pursuant to chapter 326;
- (xx) insurance brokers and salespersons regulated pursuant to chapter 60A;
- (xxi) certified interior designers regulated pursuant to chapter 326;
- (xxii) midwives regulated pursuant to chapter 147D;
- (xxiii) nursing home administrators regulated pursuant to chapter 144A;
- (xxiv) optometrists regulated pursuant to chapter 148;
- (xxv) osteopathic physicians regulated pursuant to chapter 147;
- (xxvi) pharmacists regulated pursuant to chapter 151;
- (xxvii) physical therapists regulated pursuant to chapter 148;
- (xxviii) physician assistants regulated pursuant to chapter 147A;
- (xxix) physicians and surgeons regulated pursuant to chapter 147;
- (xxx) plumbers regulated pursuant to chapter 326;
- (xxxi) podiatrists regulated pursuant to chapter 153;
- (xxxii) practical nurses regulated pursuant to chapter 148;
- (xxxiii) professional fund raisers regulated pursuant to chapter 309;
- (xxxiv) psychologists regulated pursuant to chapter 148;

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(xxxv) real estate brokers, salespersons, and others regulated pursuant to chapters 82 and 83;

(xxxvi) registered nurses regulated pursuant to chapter 148;

(xxxvii) securities brokers, dealers, agents, and investment advisers regulated pursuant to chapter 80A;

(xxxviii) steamfitters regulated pursuant to chapter 326;

(xxxix) teachers and supervisory and support personnel regulated pursuant to chapter 125;

(xl) veterinarians regulated pursuant to chapter 156;

(xli) water conditioning contractors and installers regulated pursuant to chapter 326;

(xlii) water well contractors regulated pursuant to chapter 103I;

(xliii) water and waste treatment operators regulated pursuant to chapter 115;

(xliv) motor carriers regulated pursuant to chapter 221;

(xlv) professional firms regulated under chapter 319B;

(xlvi) real estate appraisers regulated pursuant to chapter 82B;

(xlvii) residential building contractors, residential remodelers, residential roofers, manufactured home installers, and specialty contractors regulated pursuant to chapter 326;

(4) any driver's license required pursuant to chapter 171;

(5) any aircraft license required pursuant to chapter 360;

(6) any watercraft license required pursuant to chapter 86B;

(7) any license, permit, registration, certification, or other approval pertaining to a regulatory or management program related to the protection, conservation, or use of or interference with the resources of land, air, or water, which is required to be obtained from a state agency or instrumentality; and

(8) any pollution control rule or standard established by the pollution control agency or any health rule or standard established by the commissioner of health or any licensing rule or standard established by the commissioner of human services.

Sec. 3. Minnesota Statutes 2000, section 214.01, subdivision 3, is amended to read:

Subd. 3. **NON-HEALTH-RELATED LICENSING BOARD.** "Non-health-related licensing board" means the board of teaching established pursuant to section 122A.07, the board of barber examiners established pursuant to section 154.22, the board of assessors established pursuant to section 270.41, the board of architecture, engineering, land surveying, landscape architecture, geoscience, and interior design established pursuant to section 326.04, ~~the board of accountancy established pursuant~~

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to ~~section 326.17~~, the board of electricity established pursuant to section 326.241, the private detective and protective agent licensing board established pursuant to section 326.33, the board of accountancy established pursuant to section 326A.02, the board of boxing established pursuant to section 341.01, and the peace officer standards and training board established pursuant to section 626.841.

Sec. 4. Minnesota Statutes 2000, section 319B.02, subdivision 19, is amended to read:

Subd. 19. **PROFESSIONAL SERVICES.** "Professional services" means services of the type required or permitted to be furnished by a professional under a license, registration, or certificate issued by the state of Minnesota to practice medicine and surgery under sections 147.01 to 147.22, as a physician assistant pursuant to sections 147A.01 to 147A.27, chiropractic under sections 148.01 to 148.105, registered nursing under sections 148.171 to 148.285, optometry under sections 148.52 to 148.62, psychology under sections 148.88 to 148.98, dentistry and dental hygiene under sections 150A.01 to 150A.12, pharmacy under sections 151.01 to 151.40, podiatric medicine under sections 153.01 to 153.25, veterinary medicine under sections 156.001 to 156.14, architecture, engineering, surveying, landscape architecture, geoscience, and certified interior design under sections 326.02 to 326.15, accountancy under sections 326.17 to 326.229 chapter 326A, or law under sections 481.01 to 481.17, or under a license or certificate issued by another state under similar laws. Professional services includes services of the type required to be furnished by a professional pursuant to a license or other authority to practice law under the laws of a foreign nation.

Sec. 5. Minnesota Statutes 2000, section 326.53, is amended to read:

326.53 VIOLATIONS; PENALTY PROVISIONS.

Subdivision 1. **GENERALLY.** (1) Any violation of ~~the provisions of sections 326.02 to 326.229~~ shall be chapter 326A is a gross misdemeanor.

(2) Every person violating any of the provisions of sections 326.523 to 326.526, or assisting in such violation, shall, upon conviction thereof, be punished by a fine not exceeding \$3,000 or, in default of the payment of such fine, by imprisonment in the county jail for not more than one year. In the case of a corporation, the violation of these sections shall be deemed to be also that of the individual directors, officers, or agents of such corporation who have assisted in such violation, or who have authorized, ordered, or done the acts or omissions constituting, in whole or in part, such violation; and, upon conviction thereof, any such directors, officers, or agents shall be punished by fine or imprisonment as herein provided.

Sec. 6. Minnesota Statutes 2000, section 367.36, subdivision 1, is amended to read:

Subdivision 1. **TRANSITION; AUDIT.** In a town in which option D is adopted, the incumbent treasurer shall continue in office until the expiration of the term. Thereafter the duties of the treasurer prescribed by law shall be performed by the clerk who shall be referred to as the clerk-treasurer. If the offices of clerk and treasurer are combined and the town's annual revenue is more than \$100,000, the town board shall

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provide for an annual audit of the town's financial affairs by the state auditor or a public accountant in accordance with minimum audit procedures prescribed by the state auditor. If the offices of clerk and treasurer are combined and the town's annual revenue is \$100,000 or less, the town board shall provide for an audit of the town's financial affairs by the state auditor or a public accountant in accordance with minimum audit procedures prescribed by the state auditor at least once every five years, which audit shall be for a one-year period to be determined at random by the person conducting the audit. Upon completion of an audit by a public accountant, the public accountant shall forward a copy of the audit to the state auditor. For purposes of this subdivision, "public accountant" means a certified public accountant, or a certified public accounting firm, ~~or a licensed public accountant, all licensed by the board of accountancy under sections 326.17 to 326.229~~ chapter 326A.

Sec. 7. Minnesota Statutes 2000, section 412.222, is amended to read:

412.222 PUBLIC ACCOUNTANTS IN STATUTORY CITIES.

The council of any city may employ public accountants on a monthly or yearly basis for the purpose of auditing, examining, and reporting upon the books and records of account of such city. For the purpose of this section, "public accountant" means a certified public accountant, or a certified public accounting firm, ~~or a licensed public accountant, all licensed by the board of accountancy under sections 326.17 to 326.23~~ chapter 326A. All expenditures for these purposes shall be within the statutory limits upon tax levies in such cities.

Sec. 8. Minnesota Statutes 2000, section 471.49, subdivision 10, is amended to read:

Subd. 10. **PUBLIC ACCOUNTANT.** "Public accountant" means a certified public accountant, or a certified public accounting firm, ~~or a licensed public accountant, all licensed by the board of accountancy under sections 326.17 to 326.229~~ chapter 326A.

Sec. 9. Minnesota Statutes 2000, section 544.42, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of this section:

(1) "professional" means a licensed attorney or an architect, certified public accountant, engineer, land surveyor, or landscape architect licensed or certified under ~~sections 326.02 to 326.229~~ chapter 326 or 326A; and

(2) "action" includes an original claim, cross-claim, counterclaim, or third-party claim. An action does not include a claim for damages requiring notice pursuant to section 604.04.

Sec. 10. **EFFECTIVE DATE.**

This article is effective January 1, 2003.

Presented to the governor May 14, 2001

Signed by the governor May 17, 2001, 10:25 a.m.

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