



STATEMENT OF NEED AND REASONABLENESS

**Proposed Amendment to Rules Governing
Initial Licensure and Renewal of Individuals and Firms;
Retired Status; Continuing Education Requirements;
Peer Review Oversight Committee;
Retention of Audit and Other Professional Services
Documentation; and Housekeeping Updates.
*Minnesota Rules, Chapter 1105***

Revisor's ID Number R-04725

MARCH 2023

ALTERNATIVE FORMAT

Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make a request, contact Kay Weiss at the Board of Accountancy, 85 E. 7th Place, Suite 125, St. Paul, MN 55101, 651-757-1523, and email: kay.weiss@state.mn.us. TTY users may call the Board at (800) 627-3529.

INTRODUCTION AND BACKGROUND INFORMATION

The mandate of the Minnesota Board of Accountancy (“Board”) is to protect the public through the regulation of the practice of accounting by Certified Public Accountants (“CPA”), Registered Accounting Practitioners (“RAP”) and others in Minnesota by:

- ensuring that those entering the practice meet standards of competency by way of education, experience and examination;
- establishing standards of practice for those certified or registered to practice;
- requiring that anyone practicing or offering to practice accounting be certified or registered and continue to maintain their professional competence;
- enforcing the laws, rules and standards governing the practice of accounting in Minnesota in a fair, expeditious and consistent manner.

The nature of the proposed rules of the Board of Accountancy is to amend its current rules to:

- make changes necessitated by the addition of “retired status” and the removal of “automatic revocation” from Minnesota Statutes, chapter 326A;
- clarify requirements for continuing professional education (CPE), including CPE requirements for status change;
- modify the requirements for the composition of the peer review oversight committee;
- modify validity dates for applications for individual and firm permits;
- modify requirements related to providing verified experience for licensure;
- modify requirements for notification by firms of changes to firm ownership, status with the Office of the Secretary of State to operate as a registered business entity, and dissolution/termination of the firm;
- include minimum requirements for the retention of documents related to professional services other than audit; and
- make other housekeeping updates.

Additionally, the amendments update documents incorporated by reference and definitions related to education and continuing education examination; and remove obsolete, unnecessary, or duplicative rules identified in the Board’s 2022 Obsolete Rule Report.

STATUTORY AUTHORITY

This rulemaking is an amendment of rules for which the Legislature has not revised the statutory authority and so Minnesota Statutes, section 14.125, does not apply.

The Board's statutory authority to adopt the rules is stated in Minnesota Statutes, section 326A.02, subdivision 5, which provides:

326A.02 STATE BOARD OF ACCOUNTANCY

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 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 or the Public Company Accounting Oversight Board;
- (6) rules that incorporate by reference the standards for attesting listed in section 326A.01, subdivision 2, that are consistent with the standards of general applicability recognized by national accountancy organizations, including the American Institute of Certified Public Accountants and the Public Company Accounting Oversight Board;
- (7) rules governing the manner and circumstances of use of the titles "certified public accountant," "CPA," "registered accounting practitioner," and "RAP";
- (8) rules regarding peer review that may be required to be performed under provisions of this chapter;
- (9) rules on substantial equivalence to implement section 326A.14;
- (10) rules regarding the conduct of the certified public accountant examination;
- (11) rules regarding the issuance and renewals of certificates, permits, and registrations;
- (12) rules regarding transition provisions to implement this chapter;

(13) 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);

(14) 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; and

(15) upon any change to this chapter, if the board determines a change in Minnesota Rules is required, the board may initiate the expedited process under section 14.389 up to one year after the effective date of the change to this chapter.

Under this statute, the Board has the necessary statutory authority to adopt the proposed rules.

REGULATORY ANALYSIS

Minnesota Statutes, section 14.131, sets out eight factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (8) below quote these factors and then give the agency's response.

“(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule”

The classes of persons affected by the proposed amendments to the rules are applicants for the Certified Public Accountant (CPA) exam and for licensure, licensees seeking retired status, all licensees who are required to obtain continuing education to renew a license, firms and individuals who are required to maintain documents related to professional services and meet industry standards regarding those services, and the public for whom those services are performed. No class bears a specific cost for the proposed rules. In general, all classes will benefit from the proposed rules. The housekeeping amendments generally positively affect all applicants, licensees, firms, and the public.

A line item in the Board's budget covers the cost of the rulemaking.

“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”

The probable costs to the Board include the cost of the rulemaking in general.

The Board does not anticipate an increase or decrease in the cost of enforcing the rules. It also does not anticipate probable costs to any other agency because the Board is the only entity charged with implementing and enforcing the proposed rules.

“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”

The purpose of the proposed rule modifications is to change requirements delineated in existing rules and update the rules in light of statutory changes. Rule writing is the only method that exists to achieve this goal.

“(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”

Administrative rules are the only method available to the Board to define requirements for examination, individual licensure, and firm permitting.

“(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”

There are no probable costs for governmental units, businesses, or individuals to comply with the proposed rules. Modifications to the rules update existing requirements and the rules do not contain any increases to fees.

“(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals”

Retired CPA status: The consequences of not adopting the proposed rule modifications are

- lack of clarity regarding the requirements and options related to retired status, which was added to statute in 2018, and
- unnecessary barriers on the path from retired back to “active” CPA status. “Active” status is the only status under which an individual may perform the services reserved to a CPA under the Act. While an administrative path for individuals with “exempt” or “inactive” statuses to return to “active” status currently exists in rule, no such administrative path exists for those with a retired status. Someone who is in retired status can currently only change to an “active” status through the issuance of a Board Order.

Changes related to the removal of automatic revocation from the Act: The Board must address rule parts affected by the removal from the Act of automatic revocation of licensure for failure to renew a license or permit for two years. The Board must establish reasonable CPE requirements and delinquency fees for those seeking “active” status after multiple years of expiration. Automatic revocation put a natural stop to the accrual of CPE requirements and noncompliance fees. Without automatic revocation in place, CPE requirements and noncompliance fees continue to accrue from the time of expiration until the time in which the individual returns to active status. As currently

written, the rules would require an individual who left active licensure and wished to return to it to provide evidence of CPE and submit CPE noncompliance fees as part of their renewal request that would be well in excess of those ever previously anticipated by rule. The consequences of not adopting the proposed rule modifications include excessive CPE reporting requirements and noncompliance fees for certain individuals.

Continuing education: The consequences of not adopting the proposed rule modifications include an inconsistent application of the competency standards related to continuing education for those who hold or wish to hold an active CPA status. The consequences include lack of clarity in the requirements are for multiple statuses. Changes are required to address the impacts to rule of the two statutory changes noted above.

Peer review oversight committee: The changes are not substantive and have no costs for compliance.

Documentation requirements: The modifications are not substantive, as the requirements merely codify in rule existing national professional standards.

Housekeeping: Housekeeping modifications are not substantive and do not have any increase in cost to comply with them.

“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”

No relationship exists between these rules and federal regulations.

“(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.... ‘[C]umulative effect’ means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.”

Neither federal regulations nor other Minnesota state laws directly address most areas covered in the proposed rules. Therefore, this consideration is not generally applicable for these rules.

That noted, the Board specifically considered this issue in the review of its rules. Due to that consideration,

- the additions proposed to part 1105.4000 guard against the Board renewing a CPA firm permit in violation of state regulations related to business registration requirements;
- the changes related to document retention in part 1105.7800 proactively address and thus guard against adverse effects on federal or other state regulations; and
- the addition to part 1105.1100 assists the Board in complying with state and federal laws that requires the Board to obtain and, when required, share the legal name of a licensed

individual with another state or federal entity (for instance, as required for actions related to child support or tax delinquency).

PERFORMANCE-BASED RULES

Minnesota Statutes, sections 14.002 and 14.131, require that the SONAR describe how the agency, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals.

To safeguard life, health and property, and promote the public welfare, the Board provides reasonable assurance that persons practicing public accounting are competent, ethical practitioners qualified through education, examination and experience. Additionally, as an official licensing entity, the Board is charged with implementing those statutes and rules which specifically regulate the practice of public accounting.

The proposed rule amendments embodied in this Statement of Need and Reasonableness emphasize superior achievement in meeting the Board's regulatory objectives with maximum flexibility for the regulated party and the Board in meeting those goals. The Board has applied consistent and, where available, national standards in its approach to continuing professional education requirements and document retention standards. It has removed various friction points for applicants and licensees both minor (the notarizing of documents) and major (a retired individual needing a Board Order to resume active practice when there is no public protection concern related to the request).

Finally, the proposed amendments include structural changes that assist rule readability and comprehension and eliminate obsolete, unnecessary, or duplicative rule language.

ADDITIONAL NOTICE

This Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in an order issued by Administrative Law Judge Barbara J. Case on March 13, 2023.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Minnesota Association of Public Accountants ("MAPA"), a professional organization representing Certified Public Accountant members.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Minnesota Society of Certified Public Accountants ("MNCPA"), a professional organization representing Certified Public Accountant members.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the National Association of State Boards of Accountancy (“NASBA”), the national council representing Certified Public Accountants regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the American Institute of Certified Public Accountants (“AICPA”), a national professional organization for Certified Public Accountants.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the National Conference of CPA Practitioners (“NCCPAP”), a national professional organization for Certified Public Accountants.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the National Association of Black Accountants, Inc. (“NABA, Inc.”), a national professional association including Certified Public Accountant members.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the National Society of Black CPAs (“NSBCPA”), a national professional association for Certified Public Accountant members.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Accounting and Financial Women’s Alliance, (“AFWA”), a national professional association including Certified Public Accountant members.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the following colleges and universities in Minnesota offering accredited degrees in accounting:

- Augsburg University
- Bemidji State University
- Bethel University
- Capella University
- College of St. Benedict
- College of St. Scholastica
- Concordia College – Moorhead
- Concordia University, St. Paul
- Gustavus Adolphus College
- Hamline University
- Metropolitan State University
- Minnesota State University – Mankato
- Minnesota State University – Moorhead
- North Central University
- Rasmussen College
 - Blaine Campus
 - Bloomington Campus

- Brooklyn Park Campus
- Eagan Campus
- Lake Elmo/Woodbury Campus
- Mankato Campus
- Moorhead Campus
- St. Cloud Campus
- Southwest Minnesota State University
- St. Catherine University
- St. Cloud State University
- St. John's University
- St. Mary's University
 - Minneapolis Campus
 - Rochester Campus
 - Winona Campus
- University of Minnesota
 - Crookston Campus
 - Duluth Campus
 - Twin Cities Campus
- University of Northwestern – St. Paul
- University St. Thomas
- Winona State University

A postcard notification of the proposed rule changes with the website address where recipients will find the Dual Notice of Intent to Adopt, the official language of the proposed rule, and the SONAR will be mailed to all current CPA certificate and RAP registration applicants.

A postcard notification of the proposed rule changes with the website address where recipients will find the Dual Notice of Intent to Adopt, the official language of the proposed rule, and the SONAR will be mailed to all current Minnesota CPA exam candidates.

A postcard notification of the proposed rule changes with the website address where recipients will find the Dual Notice of Intent to Adopt, the official language of the proposed rule, and the SONAR will be mailed to all current CPA inactive and active certificate holders and current RAP registrants.

A postcard notification of the proposed rule changes with the website address where recipients will find the Dual Notice of Intent to Adopt, the official language of the proposed rule, and the SONAR will be mailed to all individuals granted retired status under Minnesota Statute 326A.045.

A postcard notification of the proposed rule changes with the website address where recipients will find the Dual Notice of Intent to Adopt, the official language of the proposed rule, and the SONAR will be mailed to all individuals who elected exempt status since February 1, 2020.

A postcard notification of the proposed rule changes with the website address where recipients will find the Dual Notice of Intent to Adopt, the official language of the proposed rule, and the SONAR will be mailed to all current firm permit holders and permit applicants.

The Board will post the Dual Notice of Intent to Adopt, the SONAR, and the proposed rule changes on the Board's website.

Our Notice Plan includes giving notice required by statute. We will mail the proposed rules and the Notice of Intent to Adopt to everyone who has registered to be on the Board's rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a. We will also give notice to the Legislature per Minnesota Statutes, section 14.116, and serve a copy of the SONAR on the Legislative Reference Library per Minnesota Statutes, section 14.131.

Our Notice Plan did not include notifying the Commissioner of Agriculture because the rules do not affect farming operations per Minnesota Statutes, section 14.111.

CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Board will consult with Minnesota Management and Budget (MMB). We will do this by sending MMB copies of the documents that we send to the Governor's Office for review and approval. We will do this before the Board's publishing the Notice of Intent to Adopt. The documents will include the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Board will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH at the hearing or with the documents it submits for ALJ review.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION

As required by Minnesota Statutes, section 14.128, subdivision 1, the Board has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The Board has determined that they do not because the compliance with the rules falls on individuals and firms licensed or seeking licensure and enforcement of the rules falls solely on the Board.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

Agency Determination of Cost

As required by Minnesota Statutes, section 14.127, the Board has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Board has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city.

The Board has made this determination based on the probable costs of complying with the proposed rule, as described in the Regulatory Analysis sections of this SONAR.

LIST OF WITNESSES

If these rules go to a public hearing, the Board anticipates that any of the current Board members at the time of the hearing would be available for testimony in support of the need for and reasonableness of the rules. The Board does not intend to call non-agency witnesses.

RULE-BY-RULE ANALYSIS

The Board's proposed rules include best practices and recommendations from the Office of the Revisor including:

- changing the term "shall" to "must" in multiple places throughout the rule package;
- breaking rules structured as paragraphs into "outline" structure, with subpart, item, and subitem entries, as the rule text might require;
- using the abbreviated names of entities (NASBA, AICPA, et cetera) when the abbreviation is defined in rule; and
- using active in place of passive voice.

PART 1105.0100 DEFINITIONS

- **Subp. 2a "Adaptive learning self-study program"**: This term appears in the updated version of a document incorporated by reference in part 1105.0250, item C. The Board needs to define it to clarify for licensees how this type of program fits into the CPE requirements in part 1105.3100.
- **Subp. 9g "Internship"**: The revisor has moved the definition for this term out of another part and into the definitions.
- **Subp. 11b "Professional services"**: The proposed modifications remove ambiguities regarding the professional services reserved to an active status CPA ("CPA"). For example, item A "preparing tax returns" without the proposed descriptors is overly broad. Non-CPAs can and do

prepare tax returns; they just cannot, for example, sign as a CPA nor claim the ability to represent the client as a CPA if the return were audited. “Including attest services” was inserted under item E for clarity.

- **Subp. 16a “Self-study program”** is redefined to include the specialized type of self-study defined in Subp. 2a.

PART 1105.0250 INCORPORATION BY REFERENCE

Documents in this section have been updated to reflect current document titles and editions and where copies of the documents may be obtained.

Two documents that set national standards for certain CPA services were also added to those incorporated by reference in item B. The additions clarify that the standards must be followed by firms that provide those services under a Minnesota permit. The newly incorporated documents are:

- subpart 10, *Statement on Standards in Personal Financial Planning Services* (revised January 2015), and
- subpart 11, *Statement on Standards for Forensic Services* (effective January 1, 2020).

PART 1105.0300 BOARD OF ACCOUNTANCY MEETINGS.

The Board is proposing a reduction in the number of required meetings. Required work can be done in a timely fashion with fewer required meetings; additional meetings can be called under Minnesota Statutes, section 13D, if the need should arise. Review of applications for initial licensure historically, for the convenience of Board members who had to review physical files containing private data, were performed before or after Board meetings. Now the files are reviewed regularly throughout the year over a secure digital connection, with the private data protected behind state firewalls. That change and other administrative process changes have made eight mandatory meetings per year unnecessary.

PART 1105.0400 ELECTION AND TENURE OF OFFICERS

PART 1105.0500 (B) DUTIES OF OFFICERS

Minnesota Statutes, section 326.02, subdivision 3, explicitly states that the Board has the following three officers: chair, vice-chair, and a combined secretary and treasurer. These two rule parts now reflect exactly that. The secretary/treasurer position previously was not subject to removal under part 1105.0500, item B, but there is no rationale for exempting it and the modification now includes it.

PART 1105.0700 REFUNDING FEES

The Board no longer collects fees for examination or reexamination. Refunds for examination are handled by and pursuant to the exam (third-party) administrator’s policy. The part also included a

reference to a Board-related examination fee that was struck in 2019 from Minnesota Statute, section 326A.04, subdivision 5, paragraph (b) [formerly clause (15)]. The remaining language after the modifications accurately reflects the Board’s refund policies.

PART 1105.1100 CHANGES OF ADDRESS AND OTHER INFORMATION

To comply with other state as well as federal law, the Board must have the legal name of any applicant or license holder. This rule part has been revised to include a compliance deadline for providing legal name changes to the Board.

PART 1105.1200 COMMUNICATIONS

The statement in this part regarding “appear[ance] before the board...” is misplaced and redundant. It is also found and will remain in part 1105.1300.

PART 1105.1300 APPEARANCE BEFORE BOARD

The modifications clarify over whom the Board has the authority to compel appearance before it. As individuals do not apply to the Board “for examination,” “applicant for examination” is obsolete and has been struck. Individuals with practice privileges under Minnesota Statute, section 326A.14 have been added, with the authority to do so being granted under Minnesota Statute, section 326A.14, paragraph (c).

PART 1105.1400 SEMESTER HOUR; ACCREDITATION; CREDIT FOR COURSES

Subparts 4 and 5: The modification strikes “... as an accounting major.” A major in accounting is the most direct path to meeting the education requirements in parts 1105.1500 and 1105.2900. However, a baccalaureate degree in another major, with sufficient accounting coursework from a qualifying institution as described in rule, suffice and meet the requirements in Minnesota Statutes, section 326A.03: “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.” The specificity of “... as an accounting major” in these subparts is therefore needlessly prescriptive.

Subpart 6: Applicants have always been responsible for fees related to a credentials evaluation. Evaluations are performed by third parties; the Board does not provide this service. The sentence has been added, however, for the clarity of applicants. The modification also includes a citation correction.

Subpart 8: Internships are accepted for accounting and business classes used to meet the education requirements in 1105.2900, subpart E—with limitations—per national education standards in the Uniform Accountancy Act (UAA). The UAA, however, is silent on “life experience.” The Board proposes to strike “life experience” specifically as it relates to meeting the requirements in 1105.2900, subpart E,

to which this subpart applies. As the Board to its knowledge has never had an applicant attempt to use “life experience” credits to meet these requirements, the Board foresees no consequence beyond clarity for applicants.

PART 1105.1600, SUBPARTS 1 AND 3 APPLICATIONS FOR EXAMINATION
PART 1105.1650 EARLY APPLICATION AND EXAMINATION PROVISIONS
PART 1105.1700 TIME AND PLACE OF EXAMINATION

The modifications eliminate obsolete language that reflects a historical time when the Board not only processed examination applications but also administered the examination, provided “notice to sit,” and collected fees. Language has been updated to reflect current exam applications and procedures, including third party administration and fee collection and forfeiture.

PART 1105.1800 EXAMINATION CONTENT

The timeframe for submitting passing grade results for the ethics exam (a licensure requirement) is shortened by this rule change, in keeping with a change to the validity of an open licensure application with the Board (see part 1105.2500 in this rule-by-rule analysis). An applicant for licensure has no obligation to file with the Board for licensure prior to completing all the requirements for licensure, which includes this ethics exam. Applicant data is private data. To comply with its records retention policy and Minnesota Statutes, section 13.05, the Board must not hold private data unnecessarily.

The Board accepts the AICPA Professional Comprehensive Course (for Licensure) as the qualifying exam for this part. The eleven-hour course concludes with an open-book exam of forty multiple choice questions. The exam may be taken up to three times in a single administration to allow the examinee to make the passing grade of 90%.

As the rule is currently written, an applicant may take the exam as much as two years prior to applying to the Board for licensure. At the time the individual registers for the ethics exam, they must specify the jurisdiction to which the results are to be sent. The Board must then hold for a minimum of two years the scores of individuals who have not yet and may never apply to the Board for licensure. Conversely, the rule lacks practical flexibility for applicants: As written, the applicant *must* take the exam *before* sending an application form and fee to the Board.

The proposed language offers a one-year window to submit a passing grade for the exam: six months before or after the Board is in receipt of the license application form. The revision is a sound and reasonable approach to the creation and retention of this private data for all parties.

PART 1105.2000 RETAKE AND GRANTING OF CREDIT REQUIREMENTS

All modifications are housekeeping in nature.

PART 1105.2200 CHEATING

PART 1105.2300 SECURITY AND IRREGULARITIES

PART 1105.2400 EMERGENCY EXAMINATION PROCEDURES

As with modifications to parts 1105.1500 and 1105.1600, the modifications to parts 1105.2200 through 1105.2400 remove obsolete references to a time when the Board administered the exam directly. The changes neither cede authority that belongs to the Board to another party nor create new requirements, obligations, or restrictions for those who may seek licensure with the Board.

PART 1105.2500 APPLICATIONS FOR CERTIFICATES

Item A, subitem (2) - Application expiration: This section describes how long an open application remains valid before it expires. The rationale for the timeframe currently in rule is obsolete. It reflects a time when individuals applied to the Board to sit for the Uniform CPA Examination. At that time, the three-year window for application validity allowed just enough time for most applicants to pass the four-part exam in the required 18-month maximum window and gain a year of experience prior to their application expiring.

No need now exists for anyone to apply to the Board until they have completed all the requirements for licensure: examination (CPA and ethics exams), education, and experience. The application is also available 24/7 to any individual who might wish to preview it in anticipation of completing and submitting it, with no need to submit with payment until all the requirements have been completed.

To comply with Minnesota Statutes 13.05, which stipulates that the responsible authority only “collect and store ... private and confidential data ... limited to that necessary for the administration and management of programs,” the window for validity of the application and thus the duration the Board collects and stores private application data can and should be significantly reduced.

The Board is therefore proposing an application validity of six months. Six months provides ample time for applicants to submit the supplemental documentation (such as transcripts) that in conjunction with the application form create a complete application for licensure. Applicants who do not complete their application within six months have the option to submit a new application.

Item A, subitem (2) - Reinstatement fee collection: A second change, unrelated to application validity, in this part removes the collection of a reinstatement fee for a renewal filed more than two years late. The Minnesota statute section related to automatic revocation of licensure for “failure to renew” after two years was struck in 2022. Individuals renewing after two years are no longer “requesting reinstatement” from the Board for a revoked licensure under the stricken law; they are simply renewing late. While imposing a reinstatement fee is within the Board’s discretion under Minnesota Statutes, section 326A.09, the Board considers it unnecessary because there is no longer a Board Order revoking the license that must be lifted and no Order to Reinstatement that must be issued.

Item C - Retired status: The modifications add “retired” to the statuses listed in this item, as necessitated by Minnesota Statutes, section 326A.045, and correct a citation in renumbered item C, subitem 4.

Item D – Required to apply: This section clarifies the narrow circumstances under which someone who has met the requirements for licensure *must* apply for licensure within a 60-day window of meeting the requirements for licensure. The changes make plain that the requirement to apply is directed to someone who would otherwise be in violation or imminent violation of holding out or practicing without a license or in violation of rules related to firm ownership.

PART 1105.2560 RENEWAL OF CERTIFICATES

Obsolete rules and archaic language were removed.

PART 1105.2600 EXPERIENCE REQUIRED FOR INITIAL CERTIFICATE

Given multi-state firms and remote work, a prior rule change that inadvertently restricted who may verify experience by requiring the verifier to be licensed in the state in which the candidate performed the work has been removed. The modifications clarify that the verifier hold a “valid” certificate, which is delineated in the modifications, and first-hand knowledge of the experience, which is required to meet other rule conditions for verifying experience on behalf of a licensure applicant.

The part already advised the applicant that the Board needs to “consider such factors as the complexity and diversity of the work” the applicant reports to the Board to meet the experience requirement, and the experience form the applicant must complete requests a “detailed description.” The Board is adding to the part instruction to the applicant that the burden of complying with this request lies with the applicant. Applications may be denied due to not meeting the experience requirement when the description provided to the Board lacks any detail (for example, the entirety of the description is “Taxes” or “Part of attest team”).

PART 1105.2900 EDUCATION REQUIRED FOR INITIAL CERTIFICATION

The language “on or after July 1, 2006” is obsolete and the Board proposes to strike it.

PART 1105.3000 CONTINUING EDUCATION REQUIREMENTS

For background: The 120-hour, three-year rolling CPE currently in Board rule, which will be referenced throughout this rule-by-rule analysis, and which the Board’s proposed rule modifications will seek to more standardly apply across the various situations in which the Board requires CPE is found in the Uniform Accountancy Act, developed by the AICPA and National Association of State Boards of

Accountancy (NASBA) as an "evergreen" model licensing law to provide a uniform approach to regulation of the accounting profession across the country.

Item A, subitem (2): The ethics requirement is moved to a more appropriate section of rule that specifies other minimum and maximum requirements by CPE type (see 1105.3100, subp. 4).

Item C: Consolidates the CPE requirement for both license renewal and status change requests in one section, both for clarity and to simplify the addition of retired status.

Item D: The stricken sentence is unnecessary and potentially confusing as it implies a different CPE program or requirement in this circumstance than that already within parts 1105.3000 through 1105.3300.

Item E: The modifications affirm plainly and clearly that remedying noncompliance with the CPE requirement requires *both* the documentation of required coursework *and* the payment of the applicable CPE noncompliance fee.

Item F-I: The modifications standardize the CPE requirements across status types for status change, eliminating inconsistencies in the requirements both to change from active status to a non-practicing (any status other than "active") status and from any non-practicing status back to "active" status. It clarifies the intention of CPE as a tool both to *gain* active status and *hold* it, and that an individual holding an active license at the time the CPE requirement is incurred in a given year (by June 30), the individual has the obligation of compliance with the requirement.

The Board takes CPE seriously as a tool for public protection against substandard work. CPE's goal is to maintain a level of competency that the public has the right to rely upon. Those privileged to hold an active license or seeking to hold it must understand and comply with this obligation of active licensure.

The tables that follow illustrate the current rules and proposed rules regarding CPE and how the proposed rules provide clarity and consistency. The tables also help illustrate changes proposed in parts 1105.2900 and 1105.3700.

CURRENT CPE REQUIREMENTS BY STATUS

Status	Privileges	Status Requires Renewal ?	When Can Change Status to Active	When Can Change to Other Statuses	Current CPE Requirements
Active	Only status that can perform work reserved to CPA; only status that can use the CPA title unreservedly	Yes	N/A	Inactive: as of January 1, with renewal Exempt or Retired: at any time	Renewing to Active or Inactive: Must earn required CPE by June 30 (“CPE fiscal year”) of the preceding calendar year (For example, when renewing for calendar year 2023, CPE must be completed by June 30, 2022). Once licensed for three years, must meet the 120-hour rolling 3-year requirements to renew to a licensed (Active or Inactive Status). Electing Exempt status: Can go exempt without reporting CPE but to reactive, must remedy the CPE shortfall that existed when electing exempt as well as meet the other CPE requirements for reactivation (see “Exempt” row below). Requesting Retired status: Board is proposing rules. None currently exist.
No license yet in MN	As per Active, once granted	N/A	Granted throughout the year (Application for Licensure); renewal as of January 1	N/A	If it has been more than three years since the applicant received notice of passing the Uniform CPA exam, the applicant must meet the same 3-year requirement as an existing Active licensee but as of 3 years from application date rather than CPE fiscal year.
Inactive	No practice privileges; may only use title “CPA” if accompanied by “Inactive” (“CPA Inactive”)	Yes	Granted throughout the year (Status Change to Active application) or at time of renewal as of January 1	Exempt or Retired: at any time	Must meet the same 3-year requirement as an existing Active licensee but as of 3 years from application date rather than CPE fiscal year.
Exempt	No practice privileges; may not use title in MN; may still hold license in another state	No	Granted throughout the year (Status Change to Active application)	Inactive: N/A Retired: at any time	Must report any CPE that was due at the time exempt status was elected. <i>In addition</i> , must report 50 hours of CPE per year for each year the applicant has held exempt status up to a maximum of the same 3-year requirements as an Active licensee but as of 3 years from the application date rather than CPE fiscal year.
Retired	No practice privileges; may only use title “CPA” if accompanied by “Retired” (“CPA Retired”); cannot hold license in any jurisdiction; other requirements exist	No	Granted throughout the year via reinstatement. Requires a Board Order.	Inactive: Granted throughout the year via reinstatement. Requires a Board Order. Exempt: N/A	The Board is proposing rules; none exist.

PROPOSED CPE REQUIREMENTS BY STATUS

If no change proposed, stated as “no change,” except
 parenthetical text included to illustrate consistency of CPE requirement as proposed.

Status	Privileges	Status Requiring Renewal?	When Can Change Status to Active	When Can Change to Status Other Than Active	Proposed CPE Requirements
Active	No change	No change	No change	No change	<p>Renewing to Active or Inactive: No change (Must be in compliance with 3-year, 120-hour CPE fiscal year reporting requirements)</p> <p>Electing Exempt status: Must be in compliance with 3-year, 120-hour CPE fiscal year reporting requirements to change status, unless election is made prior to incurring the CPE obligation (prior to June 30; license must be current at time of request).</p> <p>Requesting Retired status: Must be in compliance with 3-year, 120-hour CPE fiscal year reporting requirements to change status, unless request is made prior to incurring the CPE obligation (prior to June 30; license must be current at time of request).</p>
No license yet in MN	No change	No change	No change	No change	No change (Must meet the same 3-year requirement as an existing Active licensee but as of 3 years from application date rather than CPE fiscal year.)
Inactive	No change	No change	No change	No change	No change (Must meet the same 3-year requirement as an existing Active licensee but as of 3 years from application date rather than CPE fiscal year.)
Exempt	No change	No change	No change	No change	Must meet the same 3-year requirement as an existing Active licensee but as of 3 years from application date rather than CPE fiscal year.
Retired	No change	No change	Granted throughout the year but through a Status Change to Active application--no Board order required.	No change	Must meet the same 3-year requirement as an existing Active licensee but as of 3 years from application date rather than CPE fiscal year.

PART 1105.3100 CONTINUING PROFESSIONAL EDUCATION PROGRAMS

Subpart 2: The Board is expanding the approved sponsors of blended learning, which is learning comprised of both synchronous and asynchronous (as defined in Board rule) instruction. Colleges and universities whose academic programs qualify an applicant to sit for the CPA examination are already approved sponsors of *synchronous* learning for CPE credit (see part 1105.3100, subpart 1). It is reasonable, then, that colleges and universities offering *blended* learning courses as part of qualifying academic programs also be added as approved sponsors of blended learning CPE.

The Board is expanding approved CPE to include “content review” of authored articles, books, or CPE course for publication, as provided for in the updated *Statement on Standards for Continuing Professional Education (CPE) Programs* (revised December 2019), which is now incorporated by reference.

Subpart 4, item F: The ethics requirement struck from part 1105.3000 has been moved here.

Subpart 4, item G: The Board is placing a restriction on claiming credit for the identical self-study course taken twice in a given CPE fiscal year. Repeating an identical self-study course (no live instructor nor participants to create the possibility of additional learning) violates the spirit and intent of the CPE requirement.

PART 1105.3200 CONTINUING PROFESSIONAL EDUCATION REPORTING AND RECORDS

An obsolete reference was removed.

PART 1105.3300 EXCEPTION TO CONTINUING PROFESSIONAL EDUCATION REQUIREMENT

Item A: This section is rewritten for clarity and to include Retired status. The Board must grant an exemption to licensees meeting the requirements of this item.

Items C and D: The contents of C and D are included in the rewrite of Item A and so are struck, as they would otherwise be redundant.

PART 1105.3700 EXEMPTION FROM CERTIFICATE RENEWAL REQUIREMENT WHILE EXEMPT OR RETIRED

Item A: As “retired” is also a status that requires no renewal, this section is rewritten to include that fact. Those who have requested retired status have the right by Statute to return to active status. However, as there is no explicit path in rule, currently those with Retired status must request reinstatement, which requires Board review and an Order to be issued. This process causes needless delay. The rule modification allows those with a retired status to use the same administrative path to reactivation as is already available to those holding Exempt status.

Item B: The changes in this section standardize the CPE requirements for anyone seeking to move back to “active” status (“reactive”), whether the individual is currently Inactive, Exempt, or the recently established Retired status for which no rules currently exist.

Current rules to reactivate a license for those with inactive and exempt statuses are unequal. They presume that an “exempt” individual would need more CPE in a single year than a person holding an “inactive” license in order to demonstrate competency to practice. In fact, an “exempt” person may have been practicing in another state during the entire period of their exemption in Minnesota whereas the “inactive” person may have left the practice of public accounting entirely.

The Board’s proposed modifications set a *consistent* standard of competency through continuing professional education for reactivation across all statuses and, in fact, when reviewing CPE requirements for initial active licensure, across all *circumstances* for anyone seeking to hold or who currently holds an active license: 120 hours over a three year period.

PART 1105.4000 APPLICATION FOR FIRM PERMIT

As noted for individual applications, a three-year open application window is unnecessary and creates data management and record retention issues. Firms have no obligation to apply until they actually need a firm permit. The application is also available 24/7 to any firm that might wish to preview it in anticipation of completing and submitting it, with no need to submit with payment until ready. The required documentation is neither onerous nor time-consuming to gather. Six months is more than ample.

The requirement to pay the reinstatement fee for permits that are expired for more than two years is unnecessary. The statute does not specify that the fee must be paid, therefore, the Board proposes to strike it. Reinstatement of a permit requires Board review and the issuance of an Order, an unnecessary step when administrative renewal of the permit is an option. The reinstatement fee remains applicable when the Board must review a prior Order to determine if the Order may be lifted and an Order to Reinstatement may be issued.

In conjunction, however, the Board proposes the following as a public protection against unlicensed firm practice and to avoid conflict with other state statutes related to business registration changes related: firms must proactively notify the Board if the firm has terminated, does not intend to renew their CPA firm permit, or did not renew their business registration with the Office of the Secretary of State (“OSS”), if registered or required to register with the OSS. It seeks also to include a proactive ability to terminate administratively a firm that fails to renew for two or more years. See the following sections for rationale.

PART 1105.4100 NOTIFICATION OF CHANGES BY FIRMS

Item A, subitem (5): Through additions to this subitem, the Board seeks to make plain the circumstances under which a firm has a proactive obligation to notify the Board if it has ceased to exist or self-proclaims it no longer needs a Minnesota permit under Minnesota statutes and rules. The measure is consistent with the Board’s mandate of public protection, as it allows the Board to give timely notice through its web directory of permit holders to the public regarding which businesses offer services in the state as a CPA firm.

Item A, subitem (6): By using the term “in management,” the current rule language is vague. The Board only and specifically needs to know about changes in the partners and owners, which the Board uses to determine if the firm has met the renewal requirements for all owners and to contact firms as necessary.

PART 1105.4200 APPLICATIONS; INITIAL ISSUANCE; RENEWAL OF PERMITS

Items D: The proposed modifications allow the Board to terminate or “dissolve” administratively a firm permit that has not been renewed for two or more years. This allows the Board to comply with Minnesota Statutes, section 13.05. Without such ability, the Board cannot establish a reasonable timeline or criteria for records retention and destruction for expired firms that fail to comply with part 1105.4100.

Such dissolution or termination would be a non-disciplinary status change. The modified rule includes a path for dissolved firms to hold a firm permit again: submit a new application to the Board. As a firm attempting to renew more than two years after expiration must pay \$100 in statutorily required late filing fees plus the permit renewal fee and whereas the application fee for a new firm is \$100, there is no cost barrier created by the rule. Firms always have the option of keeping their permit renewed, or to notify the Board that it no longer needs a firm permit, rather than allowing it to expire and eventually be administratively dissolved.

Items E: This modification addresses a potential statutory conflict with no remedy currently available to the Board: The OSS is the entity that authorizes a business to register as an LLC, Corporation, et cetera, in Minnesota. The Board cannot be in the position of renewing a CPA firm permit to an LLC, Corporation, et cetera, that is not properly registered with the OSS. This rule modification allows the Board to administratively terminate a CPA firm permit if the business is not actively registered with the OSS. A 60-day window to remedy is provided. The OSS itself offers at most a 30-day window to remedy a registration lapse before the OSS administratively dissolves the registration (see various sections under Minnesota Statutes, chapters 300-323A). Thus, a 60-day window should be sufficient to provide proof of reregistration to the Board.

PART 1105.4300 PEER REVIEW AS CONDITION FOR RENEWAL OF PERMIT

Item B: The proposed modifications add flexibility to the structure of the peer review oversight committee without fundamentally altering its powers or duties or the Board’s authority in relation to it. National dialog suggests collaborative, interstate peer review oversight bodies may resolve difficulties many states encounter in forming such a committee. The change positions the Board to participate in such a collaboration in future without further rule changes.

PART 1105.4600 PEER REVIEW

Item C: Inserts “or firm” as a correction in the definition of “reviewer.” As is clear from other parts of Minnesota Rules 1105, firms undergo peer review, not just an individual at a firm.

PART 1105.4900 EXEMPTION FROM PEER REVIEW REQUIREMENT

The part has been restructured by the revisor.

In the newly itemized B, the phrase “under oath” is struck. The Board deems it unnecessary that the “representation regarding peer review” be under oath (notarized). A simple certification and signature by an officer/owner of the firm is sufficient for the Board; if the Board determines the firm representative made a false statement, the lack of a notarized signature does not impede the Board in undertaking disciplinary action.

PART 1105.5300 QUALIFICATIONS OF REPORT ACCEPTANCE BODIES

The changes are all housekeeping in nature.

PART 1105.6100 APPLICATIONS FOR RELIEF FROM DISCIPLINARY PENALTIES

As in part 1105.4900, the Board deems it unnecessary and potentially an impediment to the licensee if the “supporting recommendations” by third parties on behalf of a licensee must be made “under oath.” Therefore, the phrase has been struck.

PART 1105.6600 REGISTERED ACCOUNTING PRACTITIONER

The part has been restructured by the revisor.

In the newly itemized B, language regarding the validity of an initial Registered Accounting Practitioner (RAP) has been added. By a defect in the rule, no timeframe had ever been specified. The six-month window proposed is in keeping with the changes to application validity proposed elsewhere and is, again, ample for an application that need not be submitted until all requirements have been met. The

application is also available 24/7 to any individual who might wish to preview it in anticipation of completing and submitting it, with no need to submit with payment until ready.

PART 1105.7000 RENEWAL OF REGISTRATION

Item A: As noted previously for CPA individuals, the reinstatement fee for nonrenewal after two years has been struck. The same rationale applies here for removing it from RAP renewals.

PART 1105.7100 RAP FIRM APPLICATION

Item A: The validity of an initial RAP firm registration has been modified to six months. The six-month window proposed is in keeping with the changes to application validity proposed elsewhere and is, again, ample for an application that need not be submitted until all requirements have been met. The application is also available 24/7 to any firm that might wish to preview it in anticipation of completing and submitting it, with no need to submit with payment until ready.

As noted above for RAPs, the reinstatement fee for nonrenewal after two years has been struck. The same rationale applies here for removing it for RAP firm permit renewals.

PART 1105.7800 CODE OF PROFESSIONAL CONDUCT

Item A: The citation for the incorporation by reference was added.

Item F: The United States Government Accountability Office is substituted for that of the title of the ranking office holder as the issuer of the standards, as their own publication notes.

Item G: The independence of a firm with respect to an audit is critical for public protection and reliance. While those holding the titles currently noted in rule must be independent, so must any person with a “financial reporting oversight role.” The Board therefore proposes the addition of that language to the rule.

Item H: The revisor suggests and the Board agrees that the phrases “if successful” and “but not limited to” are vague and potentially defective and so have been struck.

Item J: The CPA’s fiduciary responsibility in providing professional services means they cannot while performing those professional services further profit through the recommendation of any product or service. Tax preparation is erroneously missing from that list of professional services; the Board rectifies that with this modification.

PART 1105.7850 RETENTION AND CONTENT OF AUDIT AND OTHER PROFESSIONAL SERVICES DOCUMENTATION

Mismanagement of client documents or records by a licensee or registrant is a common complaint that comes before the Board. Existing rule is explicit regarding record retention standards as it related to audit services but is silent regarding such standards for other professional services.

Items and subitems in this part have therefore been modified to apply to documentation standards for all professional services under the Act, referencing the published *Standards* in part 1105.0250. The Board affirmatively states that document handling noted in those *Standards* must be complied with for the protection of Minnesotans when the related services are provided to Minnesota clients and Minnesota-headquartered firms. Item D addresses any conflict between the requirements in this part and those of another entity (federal or another state, for example) to which the firm is subject, with the resolution that the more stringent standard or requirement applies.

As the Board is not *creating* new standards but rather expecting compliance with preexisting, national standards established by AICPA, the national professional association, the modifications create no new requirement, no new burden on practitioners. The rule modifications simply codify the rights of Minnesotans to proper document retention and management for all professional services under the Act and the rights of the Board to bring enforcement action when the management of same are substandard.

REPEALERS

PART 1105.0100, SUBPART 9F

The definition of “licensee” in this subpart merely references the statutory definition and is therefore redundant.

PART 1105.1600 APPLICATIONS FOR EXAMINATION

Subpart 2. Completion of filing

Subpart 4. Eligibility notification; deadlines

Language in these subparts are obsolete, reflecting a historical time when the Board not only processed examination applications but also administered the examination and collected fees.

PART 1105.2100 EXAMINATION CHARGES

The fee that is referenced here is a fee the Board no longer collects and no longer has the authority to collect. It was stricken from Minnesota Statute, section 326A.04, subdivision 5, in 2019. The part is therefore obsolete.

CONCLUSION

Based on the foregoing, the proposed rules are both needed and reasonable.

3.14.2023

Date

Doreen Johnson

Doreen Johnson
Executive Director