

Minnesota Board of Accountancy

STATEMENT OF NEED AND REASONABLENESS

Proposed Amendments to Rules Governing Fees, Education, Peer Review and Housekeeping Updates, Minnesota Rules, 1105.0100, 1105.0250, 1105.0900, 1105.1200, 1105.1400, 1105.1500, 1105.2400, 1105.2500, 1105.2540, 1105.2600, 1105.2900, 1105.3000, 1105.3100, 1105.4000, 1105.4100, 1105.4600, 1105.4700, 1105.4900, 1105.5100, 1105.5600, 1105.6300, 1105.7100, 1105.7450, 1105.7500, 1105.7800, 1105.7850;

Proposed Repeal of Obsolete Rules, Minnesota Rules, parts 1105.0100, subpart 9e; 1105.0200, subpart 3; and 1105.5700.

Revisor's ID Number R-04392

INTRODUCTION

The nature of the proposed rules of the Board of Accountancy ("Board") is to amend its current rules that generally pertain to all licensees and firms. The proposed rules will reduce fees, clarify the education requirements for initial certificates, and align peer review and continuing professional education requirements with the national standards.

The proposed rules will reduce fees for licensees by eliminating the fee for verification of examination or licensure.

Modifications to the education rules clarify the requirements for examination and licensure, including defining an accredited degree and the coursework required to meet the education requirement. Minnesota is one of few remaining states with "levels" of accreditation for accounting, resulting in significant confusion for applicants. The proposed rules will remove the "levels" and define the types of accreditation.

The rules regarding peer review will align with the American Institute of Public Accountants (AICPA) standards. The AICPA standards require a peer review within 18 months of the issuance of the first report subject to peer review while the Board's current rules allow 27 months. The proposed rules will require a peer review within 18 months.

In August 2016, the AICPA and the National Association of State Boards of Accountancy (NASBA) released an updated Statement on Standards for Continuing Professional Education (CPE Standards). The new CPE Standards allow learners to engage in both blended learning programs and nano-learning programs. The Board's rule update will allow its licensees to take advantage of these new methods of gaining continuing education. The Board's rules will also incorporate by reference the NASBA Fields of Study for purposes of continuing professional education.

Finally, the proposed rules include amendments that are housekeeping in nature. These housekeeping modifications do not make any substantive changes to the requirements for licensure or renewal, but

rather remove obsolete or duplicative language and clarify confusing language. The housekeeping modifications also include updating the dates of documents incorporated by reference.

ALTERNATIVE FORMAT

Upon request, this information is available in an alternative format, such as large print, braille, or audio. To make a request, contact Andrea Barker at the Board of Accountancy, 85 E. 7th Place, Suite 125, St. Paul, MN 55101, 651-757-1511, Fax: 651-282-2644, and email: *andrea.barker@state.mn.us*. TTY users may call the Board at (800) 627-3529.

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 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;
- (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);
- (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; and
- (14) 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 these statutes, the Board has the necessary statutory authority to adopt the proposed rules.

BACKGROUND INFORMATION

Fees: In 2013, the legislature raised initial license and renewal fees for certified public accountants for the first time in over 40 years. This increase in fees renders it unnecessary to continue charging a \$20 fee for verification of a licensee's credentials each time an individual applies for a new license in another jurisdiction. Eliminating the fee for verification will increase the speed in which an applicant can obtain a license in another jurisdiction. The applicant will be able to request the verification electronically rather than having to send the verification request and fee payment by U.S. Mail. The increase in license fees offsets the reduction in the Board's revenue from eliminating the verification fee.

Education: The Board's current rules defining accreditation are extremely confusing for those attempting to become licensed CPAs in the state. Minnesota is one of a few jurisdictions that defines its education requirement based on "levels" of accreditation. In reality, there are three *types* of accreditation pertinent to accounting education.

Institutions of higher education seek accreditation through two types of accrediting agencies, institutional and specialized. The Board's rules currently attempt to categorize schools with an institutional accreditation as "level one" and programs that have specialized accreditation as either "level two" or "level three." Accrediting bodies do not indicate a "level" of accreditation for a particular school or program, so individuals are not able to look up their school and find out what its "level" is. Individuals must infer the "level" by determining whether the school itself or a program or a college within the school is accredited then translate the type of accreditation into a "level" to fit with the Board's rules.

The modified rules will clearly identify the different types of accreditation and describe the education requirements for each type. The actual education requirements remain the same; they will just be easier to understand.

Peer Review: The Board's current rules regarding peer review are different than the national Peer Review Standards (Peer Review Standards) published by the American Institute of Certified Public Accountants (AICPA). The Peer Review Standards require firms to undergo and submit a peer review within 18 months of issuing their first attest or compilation report. The Board's current rules require the firm to submit the peer review 15 months after the end of the first year in which the firm issues their first attest or compilation report. The peer review is due 27 months after the issuance of the first report which is a full 9 months longer than the national standard. The modifications to the rules will reduce the timeframe allowed for a peer review to 18 months, matching the national standard and increasing protection of the public by more quickly identifying firms that fail their peer review.

Continuing Professional Education: The AICPA and the National Association of State Boards of Accountancy (NASBA) adopted updated national standards for continuing professional education (CPE Standards) in August 2016. The CPE Standards provide a framework for the development, presentation, measurement and reporting for CPE programs. The Board's rules incorporate the CPE Standards by reference; however, the Board delineates certain portions of the CPE Standards in its rules.

Modifications to the Board's rules will update the various definitions of the different types of programs to match the CPE Standards. Additionally, the rules will include two new instructional delivery methods for CPE: nano-learning and blended learning. Finally, the rules will incorporate the NASBA Fields of Study document by reference into the Board's rules. The NASBA Fields of Study defines the different subject areas for continuing professional education. The CPE Standards refers to the Fields of Study document, but the Board's rules have not historically incorporated this document.

Housekeeping: Non-substantive changes to the Board's rules include updating definitions to match national standards, updating the revision dates for documents incorporated by reference, correcting references to obsolete or incorrect statutes and rules, clarifying confusing language and repealing obsolete 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 and benefiting from the proposed modifications to the rules include:

- **Fee Reduction:** All licensees and exam candidates requesting verification of their credentials;
- **Clarified Education Requirement:** All individuals with a desire to obtain a license in Minnesota as a Certified Public Accountant;

- **Peer Review:** The public, through faster identification of firms with failed peer reviews and firms by aligning the requirements to the national standards;
- **Continuing Professional Education:** All licensees who are required to obtain continuing professional education to renew their license; and
- **Housekeeping:** All applicants, licensees, firms and the public.

A line item in the Board's budget covers the cost of the rulemaking. The Board does not anticipate an increase in the cost to comply with or enforce these rules.

“(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 costs associated with rulemaking in general and a small decrease in state revenue resulting from the modification to fees. The Board collects an average of \$2,156 per year for verifying the examination or licensure status of its licensees. Therefore, the Board expects a reduction of approximately \$2,200 per year to state revenue.

However, in 2013, the legislature raised license fees for the first time in over 40 years. The additional revenue from the increased license fees offsets the loss in revenue from the elimination of verification fees.

The Board does not anticipate an increase or decrease in the cost of enforcing the rules. It also does not anticipate any probable costs to any other agency because the Board is the only entity charged with the 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 clarify and update existing language. Rule writing is the only method that exists to achieve these goals.

“(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”

The rules serve to protect the public health, safety and welfare by ensuring that licensees meet the education, examination, experience, continuing education and peer review requirements. Administrative rules are the only method available to the Board to define and enforce the requirements.

“(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”

Probable costs of complying with the different categories of the proposed rules are as follows:

- **Fees:** Certain licensees and certificate holders will benefit from a small reduction in fees. Individuals who need verification of their examination or licensure status will no longer have to pay the administrative fee and will be able to submit their request electronically reducing the time it takes to request a verification. The Board will be able to receive and process the request in a more efficient manner. The modifications to fees will not affect other governmental units or businesses.
- **Education:** Modifications to the education rules are not substantive. The changes clarify existing requirements so there will be no additional costs to individuals, governmental units or business to comply with the rules.
- **Peer Review:** The changes to the peer review rules align the requirements to the national standards. Firms are already required to obtain a peer review and there is no additional cost to comply. These rules will not affect other governmental units or individuals.
- **Continuing Professional Education:** Individuals are already required to obtain continuing professional education to renew their license. Changes to the CPE rules will not increase the number of CPE hours required, but rather give individuals additional options to meet the requirements. The rules will not increase the cost to comply with the CPE requirements for individuals and do not affect other governmental units or businesses.
- **Housekeeping:** Housekeeping modifications are non-substantive and do not have any increase in cost to comply with them.

“(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”

The consequences of not adopting the proposed rules are:

1. Licensees continue to pay fees for verification of their credentials;
2. Education requirements remain confusing to applicants and require additional work and research on their part to determine whether they will meet the requirements;
3. Peer review rules remain different than national standards; firms have an additional nine months to submit peer review documentation, but the Board is unaware of the substandard work or failed peer review for those additional nine months which can potentially harm the public;
4. Licensees are not able to take advantage of new methods for the delivery of continuing professional education programs;
5. Definitions remain out-of-sync with national standards for continuing education;
6. Documents incorporated by reference remain out of date and out-of-sync with national standards; and
7. Obsolete, unnecessary, confusing or duplicative language remains in the rules.

“(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 address the areas covered in the proposed rules. This consideration is not applicable for these rules.

PERFORMANCE-BASED RULES

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 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 identified language that is outdated for applicants, licensees, certificate holders, firms and the public. It is critical that the Board identifies actual or potential areas of confusion on the path to licensure or renewal within its jurisdiction in order to meet its obligations to the public and regulated parties. To do otherwise creates difficulties for all interested parties – the public, members of the regulated profession, and the Board. The housekeeping updates ensure that the Board’s rules remain clear and current.

The proposed amendments to the education requirements clarify confusing and outdated language. Defining the different types of accreditation in terms that the Board and applicants can verify allows students to make informed decisions about which colleges and universities offer coursework and degree programs that lead to licensure as a CPA. The Board can easily review applications for examination or licensure and determine whether a particular degree program is accredited. Currently, the Board must rely on the National Association of State Boards of Accountancy (NASBA) to determine which applicants meet the educational requirements. Following adoption of these rules, applicants will be able to apply directly to the Board both to sit for the examination and for initial licensure rather than to NASBA for the exam and the Board for licensure.

The proposed amendments to the continuing education requirements allow licensees to take advantage of new continuing education program delivery methods, nano-learning and blended learning, to complete their continuing education requirements. Licensees must complete 120 hours of continuing education on a rolling three-year period. Allowing licensees to complete the hours in smaller increments (nano-learning) and in a variety of methods offers licensees maximum flexibility in completing their requirements. Proposed modifications to the rules regarding late processing fees for

noncompliance with the continuing education requirements clarify when late fees are assessed and offer incentive for licensees to comply with the requirements. Compliance with the requirements protects the public health, safety and welfare by ensuring that practitioners are engaging in learning opportunities to enhance and expand their knowledge of the practice of public accounting.

The proposed amendments to the peer review requirements align with the national standards. This allows firms to follow one set of deadlines (i.e. 18 months after the report date of the initial engagement) to comply with peer review requirements. Multiple deadlines for multiple jurisdictions creates confusion and inconsistency and creates opportunity for firms to unintentionally not comply with the rules.

ADDITIONAL NOTICE

This Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in a letter dated May 18, 2017, by Administrative Law Judge Eric Lipman.

The Board will mail copies of the Dual Notice of Intent to Adopt and the proposed rule changes to the Minnesota Association of Public Accountants ("MAPA"), a professional organization including Certified Public Accountant members.

The Board will mail copies of the Dual Notice of Intent to Adopt and the proposed rule changes to the Minnesota Society of Certified Public Accountants ("MNCPA"), a professional organization including Certified Public Accountant members.

The Board will mail copies of the Dual Notice of Intent to Adopt and the proposed rule changes to the National Association of State Boards of Accountancy ("NASBA"), the national council representing Certified Public Accountants regulated by this Board.

The Board will mail copies of the Dual Notice of Intent to Adopt and the proposed rule changes to the American Institute of Certified Public Accountants ("AICPA"), a national professional organization for Certified Public Accountants.

The Board will mail copies of the Dual Notice of Intent to Adopt and the proposed rule changes to the National Association of Black Accountants, Inc. ("NABA, Inc."), a national professional association including Certified Public Accountant members.

The Board will mail copies of the Dual Notice of Intent to Adopt and the proposed rule changes to the colleges and universities offering degree programs in accounting in Minnesota:

- Academy College
- Alexandria Technical and Community College
- Anoka Technical College
- Anoka-Ramsey Community College
- Argosy University
- Augsburg College
- Bemidji State

- Bethel University
- Capella University
- Central Lakes College
- Century College
- College of St. Benedict / St. John's University
- College of St. Scholastica
- Concordia College – Moorhead
- Concordia University – St. Paul
- Crown College
- Dakota County Technical College
- DeVry University / Keller Graduate School of Management
- Globe University / Minnesota School of Business
- Gustavus Adolphus College
- Hamline University
- Hennepin Technical College
- Hibbing Community College
- Inver Hills Community College
- Itasca Community College
- ITT Technical Institute
- Lake Superior College
- Metropolitan State University
- Minneapolis Business College
- Minneapolis Community and Technical College
- Minnesota State College – Southeast Technical
- Minnesota State Community and Technical College (Detroit Lakes, Fergus Falls, Moorhead and Wadena locations)
- Minnesota State University – Mankato
- Minnesota State University – Moorhead
- Minnesota West Community and Technical College
- National American University
- Normandale Community College
- North Central University
- North Hennepin Community College
- Northland Community and Technical College
- Northwest Technical College
- Pine Technical and Community College
- Rainy River Community College
- Rasmussen College
- Ridgewater College
- Riverland Community College
- Rochester Community and Technical College
- St. Cloud State University
- St. Cloud Technical and Community College
- St. Mary's University of Minnesota
- Saint Paul College
- South Central College

- Southwest Minnesota State University
- St. Catherine University
- University of Minnesota – Crookston
- University of Minnesota – Duluth
- University of Minnesota – Morris
- University of Minnesota – Twin Cities
- University of Northwestern – St. Paul
- University of Phoenix
- University of St. Thomas
- Walden University
- Winona State University

The Board will post the Notice of Hearing and the proposed rule change on the Board’s website.

The Board will mail to all current certificate holders 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.

The Board will mail to all current firm permit holders 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.

Our Notice Plan also includes giving notice required by statute. We will mail the proposed rules and Notice of Hearing 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.

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.

Our Notice Plan does not include notifying the Council on Affairs of Chicano/Latino People because the rules do not have a primary effect on Chicano/Latino people per Minnesota Statutes, section 3.922.

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 on the same day we send them to the Governor’s office. We will do this before 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 rules pertain to individuals and firms applying for licensure or certification by this Board and to individuals and firms already licensed or certified by this Board. Compliance with the rules falls on these individuals and firms. 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 section on pages 4-6 of this SONAR.

LIST OF WITNESSES

If these rules go to a public hearing, the Board may have the following potential witnesses for testimony in support of the need for and reasonableness of the rules:

Mr. Gregory Steiner, CPA, Chair
Ms. Sharon Jensen, CPA, Vice Chair
Mr. Michael M. Vekich, CPA
Mr. Chris Omdahl, CPA
Mr. Charles Selcer, CPA
Mr. Lance Radziej, CPA
Mr. Scott Van Binsbergen, Public Member
Mr. Alan Wilensky, Public Member

RULE-BY-RULE ANALYSIS

M.R. 1105.0100 DEFINITIONS

The Board incorporates by reference into its rules the *Statement on Standards for Continuing Professional Education (CPE) Programs*, a document published by the American Institute of Certified Public Accountants (AICPA). The definitions for different types of CPE programs and delivery methods are included in the *Statement on Standards* as well as the Board's rules. In order to avoid confusion for licensees, it is important that the definitions in the Board's rules match the definitions in the national standards. The following definitions have been added to or modified in the Board's rules in order to match the definitions in the *Statement on Standards for CPE*:

- **Subpart 4a:** Asynchronous - a new definition for the term which is used in other definitions describing types of CPE programs
- **Subpart 4b:** Blended learning – a new definition for one of the new types of CPE programs available to licensees
- **Subpart 9a:** Group Internet-based program – an updated definition for a type of CPE program in which licensees may engage
- **Subpart 9b:** Group live program – an updated definition for a type of CPE program in which licensees may engage
- **Subpart 10a:** Nano-learning program – a new definition for one of the new types of CPE programs available to licensees
- **Subpart 16a:** Self-study program – an updated definition for a type of CPE program in which licensees may engage
- **Subpart 18:** Synchronous - a new definition for the term which is used in other definitions describing types of CPE programs

Additionally, this rule package includes updates for two non-CPE-related definitions. These two definitions are redundant with statutory definitions of the same terms, therefore it is unnecessary to restate the definitions in rule:

- **Subpart 9f:** Licensee – MN Statutes, section 326A.01, subdivision 9, defines the term “licensee” so there is no need to redefine it in rule. The current language references individuals with practice privileges under Minnesota Statutes, section 326A.14 and specifies that these individuals are considered “licensees” for purposes of parts 1105.1200, 1105.5600, 1105.5800 and 1105.7800. However, M.R. 1105.5600 and 1105.5800 specifically includes the language “individuals with practice privileges” in its list of groups. For clarity and consistency, the proposed rules include that phrase in the list of groups in M.R. 1105.1200 and 1105.7800 and are addressed later in this rule-by-rule analysis.
- **Subpart 12:** Peer review –The first sentence of the current rule unnecessarily restates the definition of peer review as found in MN Statutes, section 326A.01, subdivision 12. The second sentence of the current rule does not belong in the definition of peer review because it is describing which person or persons must conduct the review, not what a peer review is. M.R. 1105.5200 describes the required qualifications of the reviewer; therefore, this sentence is redundant with M.R. 1105.5200. The proposed rule for the definition of peer review simply refers readers to the statutory definition.

M.R. 1105.0250 INCORPORATIONS BY REFERENCE

There are hundreds of national standards for the public accounting profession developed by several different organizations. Certified Public Accountants (CPAs) universally accept these standards as the

best practices for public accounting. It is not feasible to include every standard into the Board's rules; therefore, the Board incorporates certain documents by reference. The organizations update these documents as the industry grows and changes.

- **Item A** – For clarity, item A will not list the publication dates for each of the documents incorporated by reference. Rather, the rule item incorporating each individual document will list the publication date, making it easier for the reader to determine the publication date for each document without having to refer back to item A.
- **Item B** – The AICPA combines ten documents, including the Code of Professional Conduct and several different Statements and Standards, into a single publication entitled “AICPA Professional Standards.” The documents are also available individually. The proposed rule for item B incorporates each of the ten documents, including their most recent publication or effective date, as well as the combined publication entitled, “AICPA Standards.” The remaining changes to this item are clerical.
- **Item C** – The Board's current rules incorporate the AICPA Professional Standards, Volumes 1 and 2; however, these documents are obsolete. The AICPA no longer publishes two volumes, but rather one publication entitled “AICPA Standards,” which item B incorporates into this package.

The proposed rules incorporate the NASBA Fields of Study document as the new item C. The rules have not historically incorporated this document, however, the AICPA *Statement on Standards for CPE* and the Board's updated definition of “personal development” refer to it. Since licensees must rely on the definitions in the Fields of Study, the Board must incorporate it into its rules.

- **Item D** – The updated rules reference the most recent edition of the PCAOB Standards and Related Rules document.
- **Item E** – Rule modifications include updating the name of the “United States General Accounting Office” to the “United States Government Accountability Office” and updating the Government Auditing Standards document to its most recent revision.
- **Item F** – The Board's current rules incorporate the NASBA Model Code of Conduct. However, it is not appropriate to adopt a model code because, as the document name implies, it is simply an example of language that a state Board could incorporate into its own administrative rules. Additionally, the Board already incorporates the AICPA Code of Professional Conduct into its rules. The Board cannot incorporate two different codes governing the same topic into its rules.
- **Items G and H** – Rule modifications include re-codifying these items as items F and G and updating the names and publication dates of the documents.

M.R. 1105.0900 VERIFICATION AND TRANSFER OF GRADE FEES

As discussed in the Background Information and Regulatory Analysis sections of this SONAR, the legislature recently increased license and renewal fees. The increase in fees covers the costs associated with processing verifications of examination and licensure. Additionally, since many of the Board's records are electronic and it can submit many of the verifications to other Boards electronically, it takes significantly less staff time to complete a verification. The proposed rules eliminate the \$20 administrative fee to process verifications and the requirement to include a self-addressed stamped envelope with the verification request.

M.R. 1105.1200 COMMUNICATIONS

The proposed rules include two modifications to this part.

First, to add the phrase "or individual with practice privileges under Minnesota Statutes section 326A.14" to the groups listed in the rule. This ensures that it is clear that individuals practicing public accounting in this state under the Substantial Equivalency statute are subject to these rules even though they do not specifically hold a Minnesota license. Minnesota Statute 326A.14 subjects these individuals to all of the Board's statutes and rules, but specifically adding the language to this part ensures that anyone reading these rules can easily conclude that these individuals are, indeed, subject to the rules.

Second, to eliminate the requirement that communications to the Board be addressed to "Executive Director, Board of Accountancy." The rule is unnecessary and is not enforceable. The Board is certainly not going to return correspondence to a sender who did not address the envelope to the Executive Director.

M.R. 1105.1400 SEMESTER HOUR; ACCREDITATION; CREDIT FOR COURSES

Subpart 2: Rather than defining accreditation in "levels," the modified rules define and explain three types of accreditation. The type of accreditation, (institution, school or program), determines which of the education requirements specified in M.R. 1105.1500 the applicant must complete.

- **Item A:** All applicants for licensure as a CPA must obtain their education from an accredited institution. The United States Department of Education recognizes and lists national and regional accrediting agencies for postsecondary institutions in the United States and its territories. National accreditation associations focus on certain types of colleges such as trade and technical institutions or religious colleges such as seminaries and bible colleges, which are not relevant to accounting education. Regional accreditation agencies accredit degree-granting colleges and universities. It validates the quality of an institution as a whole and evaluates multiple aspects of an institution ranging from its academic offerings, governance and administration, mission, finances, and resources.

The Board's proposed rules continue to require that the institution be accredited by one of six regional accrediting agencies. The recognized regional accrediting agencies that accredit institutions offering degree programs in accounting are:

- the Middle States Commission on Higher Education;
- the North Central Association of Colleges and Schools, The Higher Learning Commission;
- the New England Association of Schools and Colleges, Commission on Institutions of Higher Education;
- the Northwest Commission on Colleges and Universities;
- the Southern Association of Colleges and Schools, Commission on Colleges; and
- the Western Association of Schools and Colleges, Senior Colleges and University Commission.

By specifically listing the regional accrediting agencies within the rule, applicants can easily determine which accrediting agency applies to their region and find out whether their school is accredited by one of these agencies.

- **Item B:** Once a college or university earns institutional accreditation, it can take accreditation a step further and seek “specialized” or “professional” accreditation for each of its disciplines. Relative to accounting, a business school within an accredited institution may obtain specialized accreditation. There are two national accrediting agencies which accredit schools of business: the Accreditation Council for Business Schools and Programs (AABSP) or the Association to Advance Collegiate Schools of Business (AACSB), formerly known as the American Assembly of Collegiate Schools of Business.

The proposed rules state that a business school must be accredited by one of these two national accrediting agencies.

- **Item C:** Finally, in addition to accreditations described in items A and B, an accounting program or department may be accredited. Such accounting program or department must be accredited by the AACSB or the ACBSP.

The remaining language for the current items A, B and C is unnecessary. By definition, an accredited institution, business school, accounting program or department must meet a stringent set of standards in order to gain each type of accreditation. There is no need to spell this out in rule. Additionally, M.R. 1105.1500 describes the specific education requirements for each applicant dependent on the type of accreditation of the institution, school or program so there is no need to state those requirements in this rule part.

Subparts 3, 4 and 5: The proposed language in these subparts clarifies that the applicant must have an accredited baccalaureate or graduate degree. Many institutions that offer associate’s degrees are accredited by one of the regional accrediting agencies. A student graduating with an Associate’s degree in accounting from one of these institutions is technically graduating from an accredited educational institution as required in the rule. However, Minnesota Statutes require an applicant hold a minimum of a bachelor’s degree for licensure as a CPA. The modified language offers clarity.

M.R. 1105.1500 EDUCATION REQUIREMENTS

This rule describes the various ways an individual can meet the education requirement. The proposed rules eliminate the “levels” of accreditation and replace the language with specific descriptions of what meets the requirement. The actual requirements are not changing, only the description.

- **Item A:** The “level three accreditation” described in the Board’s current rules means that the applicant obtained a graduate degree from an accredited accounting program or department within an accredited business school. AACSB and ACBSP are the only two accrediting bodies for business or accounting degrees. Therefore, the proposed rules state that an individual with a graduate degree from an AACSB or ACBSP-accredited accounting program or department within an AACSB or ACBSP-accredited business school meets the education requirements.
- **Item B:** The “level two accreditation” described in the Board’s current rules means that the business school or college of business from which the applicant obtained their degree is accredited. Again, AACSB and ACBSP are the only two accrediting bodies for business or accounting degrees. Therefore, the proposed rules for item B state the requirements for an individual with a graduate degree from a business school or college of business that is accredited by AACSB or ACBSP. Because the actual accounting program or department within the business school is not accredited, the transcripts for individuals within this category must specifically show completion of a minimum 24 semester hours in accounting at the undergraduate level (or 15 semester hours at the graduate level) including courses in financial accounting, auditing, taxation and management accounting.

The current rules state that the 24 semester hours in accounting must include “coverage of, but not necessarily separate courses in” four specific subjects – financial accounting, auditing, taxation and management accounting. It is extremely subjective to state that courses must have “coverage of” certain topics. One course that touches on the four topics is not equivalent to four separate courses going in depth on each topic. Nearly all accounting students take separate classes in financial accounting, auditing, taxation and management accounting. Therefore, the proposed rules simply state that the required semester hours must include courses in those four topic areas. The rare student who does not complete separate courses in those four topics has a statutory process by which they may request a waiver of the rule from the Board.

- **Item C:** This item is similar to item B except the applicant has a baccalaureate degree from an accredited business school or college of business rather than a graduate degree. In this instance, the applicant’s transcripts must show completion of 24 semester hours in accounting, including courses in financial accounting, auditing, taxation, and management accounting and an additional 24 semester hours in business-related or accounting courses. Other modifications to this rule item are the same as those described in item B.
- **Item D:** The “level one accreditation” described in the Board’s current rules means that the educational institution is accredited. Neither the business school or accounting program within the business school have additional accreditation beyond the institution’s accreditation. In this scenario, the applicant’s transcripts must show completion of 24 semester hours of accounting

at the upper division or graduate level, including courses in financial accounting, auditing, taxation, and management accounting.

The proposed rule clarifies the meaning of “upper division or graduate level” by modifying the language to say “intermediate or advanced level.” The current rule defines “upper division” as junior or senior level. It also says that in accounting, that would be all courses beyond the elementary level. The two sentences contradict each other because courses “beyond the elementary level” could be coursework taken in a student’s sophomore year, or perhaps even late in freshman year. Graduate level is defined as courses that apply toward an advanced degree. The proposed definition of “intermediate or advanced level” coursework encompasses all coursework taken beyond the introductory level, including coursework taken during freshman or sophomore year and coursework taken as a graduate student.

M.R. 1105.2400 EMERGENCY EXAMINATION PROCEDURES

The reference to Minnesota Statutes, section 326A.04, paragraph (b), clauses (14) and (15) is incomplete. The updated reference will specify subdivision 5 of section 326A.04.

M.R. 1105.2500 APPLICATIONS FOR CERTIFICATES

The Board’s approved record retention schedule states that incomplete applications can be destroyed after three years. The proposed language states that applicants who do not supply all required supporting documentation with three years, rather than four, must submit a new application. This change aligns with the Board’s record retention schedule.

M.R. 1105.2540 TEMPORARY MILITARY CERTIFICATE

Subpart 1 states that an applicant must submit payment of the license fee as specified in Minnesota Statutes, section 326A.04, subdivision 5 when applying for a temporary military certificate. However, the statute specifies a “fee” not a “license fee.” The proposed rule aligns with the statute.

M.R. 1105.2600 EXPERIENCE REQUIRED FOR INITIAL CERTIFICATE

In the current rule language, item E narrows the statutory definition of a “licensee” to an individual who holds a “valid certificate” or an unexpired certificate with a status of “inactive” for two rule parts – M.R. 1105.2600 and M.R. 1105.2800. These two rules describe the experience requirement for initial certification. When all three rules are taken in context, we find that the intent of item E is to insure that an individual verifying an applicant’s experience has an unexpired CPA certificate with a status of “active” or “inactive” (i.e. the verifier’s license is in good standing).

Since Minnesota Statutes section 326A.01, subdivision 9 already defines the term “licensee,” the proposed language eliminates the narrowed definition of the term in item E and incorporates the intent into item B of this rule part.

The proposed language clarifies that the applicant’s experience must be verified by a licensee who holds a “valid certificate” as defined in part 1105.6550, item A or an unexpired certificate that has a

certificate states of “inactive” and that experience gained in another state must be verified by a CPA with an unexpired certificate, license or registration in that state.

The requirements are not changing, however by incorporating the licensure requirements of the verifier into item B, the reader does not have to read multiple rule parts to figure out who can verify their experience.

M.R. 1105.2900 EDUCATION REQUIRED FOR INITIAL CERTIFICATION ON OR AFTER JULY 1, 2006

- **Item B:** The chart showing the educational requirements for initial certification in the current rule is duplicative. Meeting the requirement in row one (24 credits in upper division or graduate level courses in financial accounting, auditing, taxation, and management accounting) is the same as meeting the requirement in M.R. 1105.1500, subpart 1, item D. After the applicant has met that requirement, they can take the CPA exam. Before obtaining their initial certificate, they must complete the remainder of the 150 required credits, including 24 credits in business-related subjects or accounting.

The proposed language for item B incorporates the table into the requirement and makes it clear that the 150 semester hours includes the coursework required by part 1105.1500, subpart 1, item D and the 24 semester hours in business-related subjects or accounting.

- **Item D:** The proposed rules clarify that the courses an individual takes to meet the 150-semester hour requirement must be nonduplicative (i.e. a student cannot take the same course at two different schools and claim credit for both). Item D also contains a list of accounting-related subjects and a list of business-related subjects. The current language in item D requires that the 150-semester hour requirement cover “some or all” of the subjects in the lists. “Some or all” is subjective. The proposed rules state that the courses must cover one or more of the subjects.

In subitem (1), the accounting-related subjects, the proposed rules clarify that “ethics” in this list is accounting ethics. The proposed rules for subitem (2), the business-related subjects, clarify that the “ethics” in this list is business ethics. Additionally, the proposed rules contain two more business-related subjects: marketing and data analytics. Business degree programs commonly offer these two subjects as electives. The subject of data analytics is becoming especially relevant in the field of accounting as the use of technology in audits grows.

M.R. 1105.3000 CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS

The continuing professional education (CPE) requirements in items A to D of this rule are not changing. A licensee must complete the required CPE by June 30 each year and report the required CPE to the Board by December 31 each year.

The current language in item E states that a licensee not in compliance with [M.R. 1105.3000] on June 30 of each year shall be assessed late processing fees for each month or partial month of noncompliance. Given that a licensee has two different deadlines related to CPE (the June 30

completion date and the December 31 reporting date), the date that late processing fees are assessed can be interpreted in a couple of ways.

It is clear that a licensee who does not complete the required continuing education by June 30 is out of compliance with the rule and shall be assessed the late processing fees beginning on July 1. In the literal interpretation of the rule, a licensee who *completes* the CPE by June 30, but does not report the CPE by December 31, was technically in compliance with the rule on June 30. It is not until the following June 30 that the rule can be applied and that we “know” that the licensee is out of compliance with the deadline for reporting. In reality, the licensee is out of compliance with the reporting requirement on December 31 and the intent of the rule is to assess a late processing fee for reporting CPE after the deadline. The literal interpretation of the rule as currently written allows a licensee a six-month grace period to report the CPE before fees are assessed (as long as the CPE was *completed* on time) giving the licensee no incentive to report on time.

For example, John completes his CPE by June 30, 2016. On June 30, 2016, he is in compliance with M.R. 1105.3000 as required by part E. He does not report his hours by December 31, 2016, however, part E states that a licensee not in compliance with this part *on June 30* shall be assessed a late processing fee. On June 30, 2016, John was in compliance with the rule because he had completed his CPE. Therefore, if he reports his CPE any time between January 1 and June 30, 2017, he would not be charged a late processing fee because he was in compliance with the rule on June 30, 2016. If he does not report his hours in that time frame, on June 30, 2017, item E of the rule is again applied and we “know” that he is not in compliance with the reporting requirement. In reality, on December 31, 2016, we know that he was out of compliance with the reporting deadline, but the rule does not say that a licensee out of compliance on December 31 shall be assessed a late reporting fee. It is not until after June 30, 2017, that we can assess the fee. If he reports his hours in July 2017, he would be charged the late processing fees for January through July because now we “know” he was out of compliance with the reporting deadline of December 31, 2016, and January 2017 was the first month of noncompliance. His fees for reporting in July 2017 would be \$200 (\$50 for January and \$25 for each month or partial month after that). The fees would continue to accrue each month until he is in compliance.

The intent of the rule is to deter a licensee from not complying with the CPE requirements. By allowing a “grace period” to report the hours with no penalty, there is not an incentive for the licensee to report the hours on time. The proposed language removes the phrase “on June 30 each year” so that the rule says “A licensee not in compliance with this part shall be assessed a late processing fee...”

A licensee not in compliance with the June 30 completion date would be assessed the late processing fee beginning on July 1. A licensee who completes the hours by June 30 but does not report them by December 31 would be charged the late processing fee on January 1, the date they are out of compliance. By removing the phrase, the rules deter a licensee from becoming out of compliance with the CPE requirements. They must complete the hours by June 30 and report the hours by December 31 or they will be charged late processing fees.

M.R. 1105.3100 CONTINUING PROFESSIONAL EDUCATION PROGRAMS

Subpart 2: The Board incorporates the Statement on Standards for Continuing Professional Education (CPE) Programs (*Standards*) into its rules. The *Standards* are published jointly by National Association

of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA) and provide a framework for the development, presentation, measurement and reporting of CPE programs.

In July and August, 2016, at their respective Board of Director's meetings, NASBA and AICPA approved revisions to the *Standards*. The new *Standards* include two additional instructional delivery methods – nano-learning and blended learning (definitions of these terms are included under modifications to M.R. 1105.0200). According to the *Standards*, licensees will be able to claim one-fifth (0.2) CPE credit for nano-learning programs and one-fifth credit for programs using other delivery methods after a minimum amount of credit for the program has been awarded.

The Board's proposed rules incorporate these two programs into its list of learning activities that are eligible for CPE credit. The addition of blended learning and nano-learning meets the marketplace demand for greater flexibility and increased CPE options.

Subpart 4, item D: The Statement on Standards for Continuing Professional Education Programs refers to the NASBA Fields of Study document which describes technical and non-technical learning activities that qualify for Continuing Professional Education. Rather than create its own definitions for the different fields of study, the Board's proposed rules incorporate by reference the nationally recognized NASBA Fields of Study document.

In a previous revision of the NASBA Fields of Study, the definition of personal development was removed. At that time, the Board added the definition to its rules because the Board specifically limits the number of hours a licensee can claim for continuing education in the area of personal development.

The newest revision of the NASBA Fields of Study includes a new definition for personal development that differs from the Board's definition. This creates confusion among licensees and CPE providers who rely on the NASBA Fields of Study definitions for their coursework. Personal development is considered a non-technical learning activity in the NASBA Fields of Study. Rather than list all of the non-technical learning activities in its rules, the Board's proposed rules simply limit the number of hours that may be obtained from non-technical learning activities and refer to the NASBA Fields of Study document for the definition of those activities.

M.R. 1105.4000 APPLICATION FOR FIRM PERMIT.

- **Item A:** Similar to incomplete applications for individual certificates covered by M.R. 1105.2500, the proposed modifications to this rule allow the Board to destroy applications for firm permits that remain incomplete for three years. After three years of inactivity, it is unlikely that the firm intends to obtain a permit from the Board and therefore is unnecessary for the Board to keep the documents it had received.

M.R. 1105.4100 NOTIFICATION OF CHANGES BY FIRMS

Item A, subitem (8) requires a firm to notify the Board within 30 days of its initial offering of attest or compilation services in this state. The term "offering" can be difficult to interpret and enforce. A firm

could be “offering” these services: (1) at the time it solicits an engagement, (2) when it enters into an agreement or (3) when it actually performs the service. The Board’s rules require peer review of firms performing attest or compilation services and needs to know which firms are performing these services in order to ensure that the firm is in compliance with the peer review requirements. It is hard to calculate the due date of the peer review if “offering” services can be interpreted in multiple ways. Additionally, if a firm solicits the engagement, notifies the Board that it is “offering” services, then does not get selected for the contract, the Board’s records indicate that the firm is offering services and will require a peer review prior to renewal of the firm’s permit. If the firm is not actually performing the services, there is no need for a peer review.

The proposed language clarifies that the firm must notify the Board within 30 days of the initial report date of attest or compilation services. If a firm issues a report, it is clear that they are offering attest or compilation services and is subject to the peer review requirement. The Board can easily calculate the due date of the peer review and inform the firm of the due date based on the report date of the service.

M.R. 1105.4600 PEER REVIEW

Minnesota Statutes, section 326A.01, subdivision 12 defines “Peer Review.” There is no reason for a rule to restate the statutory definition in slightly different terms, therefore, the Board’s proposed rules simply reference the statutory definition.

M.R. 1105.4700 PEER REVIEW STANDARDS

The AICPA no longer publishes the AICPA Professional Standards by volume. The proposed rules eliminate “Volume 2” from the reference to the AICPA Professional Standards.

M.R. 1105.4900 EXEMPTION FROM PEER REVIEW REQUIREMENT

M.R. 1105.4100, as proposed, requires a firm to notify the Board within 30 days of the report date of initial attest or compilation services. The proposed language in this rule part makes it clear that a firm under exemption who notifies the Board that it has issued attest or compilation reports must undergo a peer review.

It also clarifies the due date of the peer review. The current language states that the firm must undergo a peer review during the first full year after its initial acceptance of an engagement. The “first full year after” could be interpreted in multiple ways:

1. The firm accepts an engagement in February, so they must complete a peer review by the following February (within 12 months of accepting the engagement).
2. The firm accepts an engagement in February and the firm’s year ends on June 30. They must complete a peer review during the first full year after accepting the engagement, so by June 30 of the following year (16 months after accepting the engagement).
3. The firm accepts an engagement in February and their year ends on December 31. They must complete a peer review during the first full year after accepting the engagement, so by December 31 of the following year (22 months after accepting the engagement).

By modifying the language and stating that the peer review is due 18 months from the report date of the initial engagement, the due date is clear to all parties. Additionally, the AICPA *Standards for Performing and Reporting on Peer Reviews*, incorporated by reference into the Board's rules, requires a peer review within 18 months of the issuance of the first report subject to peer review. The Board's proposed rules align with the national standards.

M.R. 1105.5100 FIRM PEER REVIEW REQUIREMENT

Similar to the proposed language in 1105.4900, the Board's proposed language for this rule part aligns with the national standards and clarifies that a new firm must submit the peer review material to the Board no later than 18 months from the report date of the initial engagement.

The proposed language also clarifies that a firm must undergo a peer review every three years after the due date of the initial peer review.

M.R. 1105.5600 GROUNDS FOR ENFORCEMENT ACTION

Subpart 1, Item E: The groups listed in subpart 1 include individuals with privileges under Minnesota Statutes, section 326A.14. The proposed rules add "individual with practice privileges under Minnesota Statutes section 326A.14" to two sentences in order to fully mirror the list of groups identified in subpart 1.

Additionally, the proposed language clarifies that "a person specified in Minnesota Statutes, section 326A.05, subdivision 3, paragraph (c)" is a nonlicensee owner. By stating "nonlicensee owner" rather than "person specified in" the rules are clear and readers do not have to go to another rule just to figure out who a "person specified in" is.

M.R. 1105.6300 MISLEADING CPA FIRM NAMES

Item C contains an incorrect reference to Minnesota Statutes, section 326.05. The proposed language correctly references the statute as section 326A.05.

M.R. 1105.7100 RAP FIRM APPLICATION

- **Item A:** The rationale for the change to this rule is the same as the rationale for the corresponding rule for firm permits under M.R. 1105.4000.

M.R. 1105.7450 MISLEADING RAP FIRM NAMES AND FICTITIOUS RAP FIRM NAMES

Item C contains an incorrect reference to Minnesota Statutes, section 326.05. The proposed language correctly references the statute as section 326A.05.

M.R. 1105.7500 COMPILATION REPORTS

Item C: The current language contains two redundant sentences. The proposed language simplifies the current language by combining the two sentences.

M.R. 1105.7800 CODE OF PROFESSIONAL CONDUCT

According to Minnesota Statutes, section 326A.14, an individual with practice privileges under the statute is subject to the personal and subject matter jurisdiction and disciplinary authority of the board and must comply with the board's statutes and rules. In Minnesota Statutes, section 326A.14, an individual with practice privileges is referred to as a "licensee;" however, these individuals are not specifically defined as a "licensee" under Minnesota Statutes, section 326A.01. The proposed language adds "or individual with practice privileges under Minnesota Statutes, section 326A.14" to several sentences in items I, J and K of this rule to make it perfectly clear that these individuals are subject to the Code of Professional Conduct.

M.R. 1105.7850 RETENTION AND CONTENT OF AUDIT DOCUMENTATION

- **Item A:** The AICPA no longer publishes the AICPA Professional Standards by volume. The proposed rules eliminate "Volume 1" from the reference to the AICPA Professional Standards.

REPEALERS

M.R. 1105.0100, subpart 9e: Internet-based program – this definition is obsolete since it was removed from the *Statement on Standards for Continuing Professional Education Programs* and "Group Internet-based program" was redefined.

M.R. 1105.0200, subpart 3: The Board's statutes and rules speak for themselves. The Board members and staff do not give oral opinions or interpretations of the statutes and rules. Therefore, this rule part is obsolete.

M.R. 1105.5700: This rule package repeals this rule because it is unnecessary for a licensee or registrant whose certificate, permit or registration is suspended or revoked to return the physical, paper certificate to the Board office.

CONCLUSION

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

May 22, 2017
Date

Doreen Frost
Doreen Frost
Executive Director