



## **STATEMENT OF NEED AND REASONABLENESS**

**Proposed Amendment to Rules Governing  
Examination Credit Requirements and  
Continuing Professional Education Late Processing Fees,  
*Minnesota Rules*, parts 1105.2000 and 1105.3000**

Revisor's ID Number R-04851

**MARCH 2024**

## 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. 7<sup>th</sup> Place, Suite 125, St. Paul, MN 55101, 651-757-1523, and email: [kay.weiss@state.mn.us](mailto: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:

- change the Uniform CPA Examination section validity from 18 months to 30 months, using the AICPA score release date as the date by which to calculate, a standard congruent with the Uniform Accountancy Act (UAA);
- to cap late processing fees related to CPE to no more than the applicable accrued fee for the three-year CPE reporting cycle associated with the renewal that would reestablish an individual’s license as “valid”; and
- make a related housekeeping modification.

## 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, all licensees who are required to obtain continuing education to renew a license, and the public for whom CPA services are performed. No class bears a specific cost for the proposed rules. In general, all classes will benefit from the proposed rules.

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”**

The consequences of not adopting the proposed rule modifications are

- unnecessary barriers on the path to licensure for financially disadvantaged individuals and individuals with constraints on their time such as those caused by child-rearing, which primarily although not exclusively impacts women. These historically unrepresented groups face issues finding the time and financial resources to study for and pass all section of the Uniform CPA Exam within 18 months. If a section credit expires, they must also go through the additional cost and effort of re-sitting for the previously passed section.
- unintentionally punitive CPE fees inconsistent with the current rule where “120 hours of continuing education over 3 years for maintaining competency” is the standard. Fees for noncompliance during the 3 years are a sufficient deterrent, given they accrue by month and per year of noncompliance.

**“(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 the areas covered in the proposed rules. Therefore, this consideration is not applicable for these rules.

## **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 possible, national standards in its approach to examination and continuing professional education requirements. It has removed various friction points for applicants with the exam score credit change. It has eliminated ambiguity and any unintended punitive rather than appropriately deterrent effect in the reasonable collection of fees related to licensee noncompliance with continuing education requirements.

## **ADDITIONAL NOTICE**

This Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in an order issued by Administrative Law Judge Ann O’Reilly on March 28, 2024.

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 Minnesota Association of Financial Professionals (“MNAFP”), 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 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 National Society of Accountants (“NSA”), 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 Institute of Internal Auditors (“IIA”), 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 International Federation of Accountants (“IFAC”), 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 American Accounting Association (“AAA”), 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 Institute of Management Accountants (“IMA”), 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
  - Morris 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.

The Board will send notice to individuals self-registered on the Board's general email bulletin list.

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 or email the proposed rules and the Notice of Intent to Adopt to everyone who has registered to be on the Board's rulemaking 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

### PART 1105.2000 RETAKE AND GRANTING OF CREDIT REQUIREMENTS

Minnesota seeks to establish a window for passage of all four sections of the Uniform CPA exam which accomplishes all of the following:

- Tests applicants on the skills determined to be the minimum required for competency (preserve test validity).
- Does not create a barrier to entry (levels the path) for those historically under-represented in the profession. These include those of limited income and those for whom other responsibilities (child-rearing; other dependent care; other life circumstances) make finding the money and/or the time to prepare for and complete the exams difficult.
- Does not interfere with the ability of Minnesota licensees to become licensed in other jurisdictions.

In proposing a 30-month window, the Minnesota Board of Accountancy has carefully considered all these factors.

#### Background:

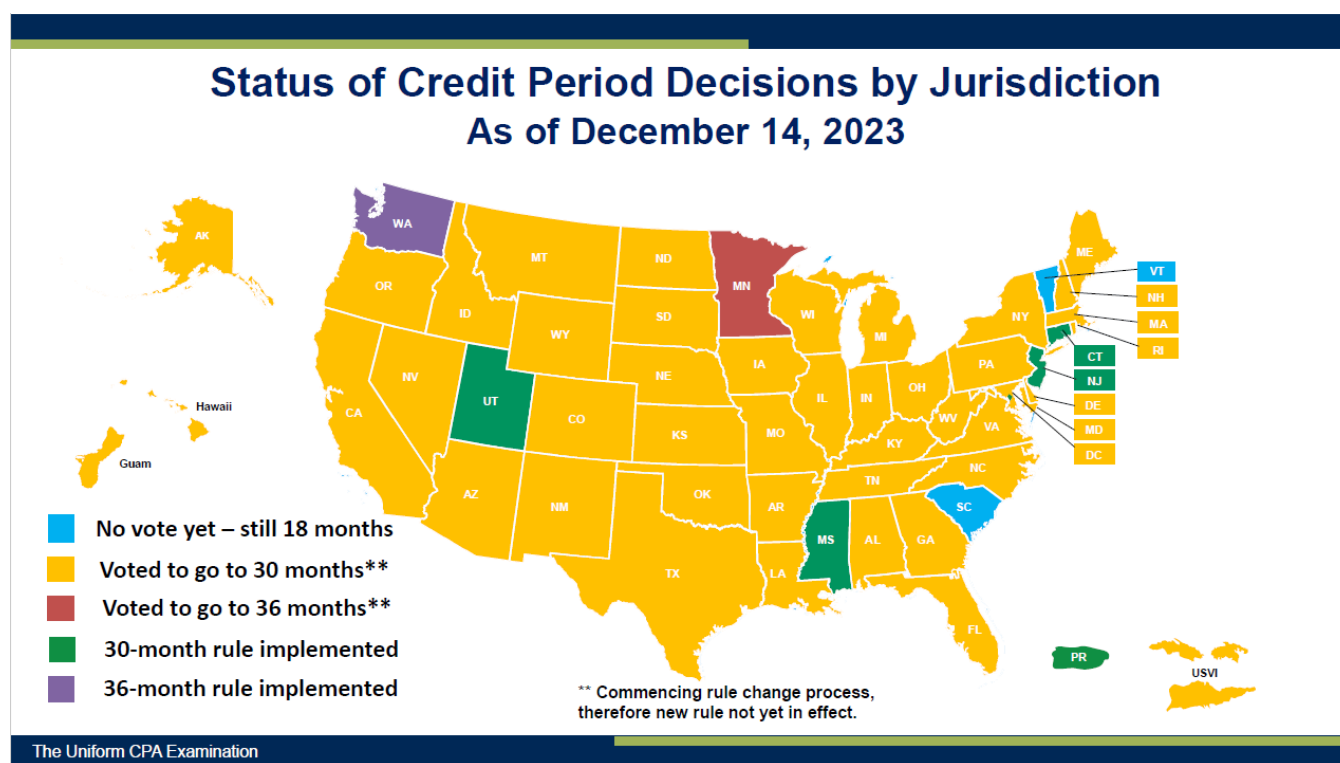
Prior to Minnesota Rules, 1105 (2003), applicants were required to sit for all four sections of the Uniform CPA Exam (“the exam”) in one sitting. If they failed more than 2 of the 4 sections, they needed to retake all the sections, which they could not immediately do (must wait for the following administration). Otherwise, they could retake the remaining sections but must pass those within the next 5 administrations of the exam or they would again need to sit for all the sections. The exams were administered twice per year on specific dates. This created the net effect of a 30-month exam window. However, it also required the candidate to be available on very specific dates, a potential hardship if life interfered with the exam administration calendar. In 2003, along with the computerization of the exam, applicants were allowed to sit for just a single section and had an 18-month window to eventually pass all the sections.

The work of CPAs, particularly but not limited to those conducting audit work, has become increasingly complicated even over the last decade (see AICPA/NASBA Joint article, 2001, [https://egrove.olemiss.edu/cgi/viewcontent.cgi?article=1155&context=aicpa\\_exam](https://egrove.olemiss.edu/cgi/viewcontent.cgi?article=1155&context=aicpa_exam) and Journal of Accountancy article, 2015, <https://www.journalofaccountancy.com/news/2015/sep/cpa-exam-proposed-changes-201512929.html>). The profession requires a much more sophisticated skill set, including information technology skills and statistical understanding. The exam needed to evolve to reflect that, as did degree coursework and hands-on experience (another requirement of licensure). Most recently, a new exam/exam structure was developed and launched in January 2024 (see AICPA 2020 Practice Analysis Final Report, <https://us.aicpa.org/content/dam/aicpa/becomeacpa/cpaexam/downloadabledocuments/practice-analysis-final-report-2020.pdf>).

Citing that higher skill requirement, the expense of higher education, and the desire not to leave historically underrepresented individuals with an increasingly steeper path to climb to achieve licensure, the National Association of State Boards of Accountancy (NASBA) recognized the need to expand the exam window beyond 18 months. NASBA leadership first proposed a 24-month window in February 2023 as a change to the Uniform Accountancy Act (model law guidance which states may or may not choose to follow).

However, the response from states and other interested parties to the UAA draft proposal was resoundingly negative by the. A 24-month window was still deemed insufficient. From this, a 30-month compromise quickly arose, and a 30-month window was adopted as model law in April 2023 (see NASBA announcement, April 2023, <https://nasba.org/wp-content/uploads/2023/04/UAA-Model-Rule-Announcement-Final-.pdf>).

Most states have since worked to adopt the 30-month window, as their rule processes allow (see NASBA chart, dated December 14, 2023):



The Minnesota Board had originally voted to adopt a 36-month window based on the “exam taken” date (the date used in current rule), at a meeting in early 2023, but as the overwhelming majority of states have already adopted or proposed to adopt the 30-month window as that is now model law (see chart below), the Board voted at its March 6, 2024, meeting to adopt the 30-month window and to change the date by which the window is calculated.

By changing the date that signals the start of the window from the date the exam was taken to the date AICPA releases the score, the window for Minnesota candidates will be substantially equivalent to

that of any state adopting the UAA language. The UAA uses the language “...released by NASBA to the Candidate or the Board, as the case may be...” ([UAA, Rule 5-7\[a\]](#)). The Board prefers the more precise language “AICPA exam release date,” even though the two dates are, ostensibly, identical. When AICPA sends the results to NASBA, all applicable results are transmitted. While NASBA’s procedure is to turn the results *the same day*, variations between the different means of delivery to the different states (or candidates) can introduce variation. Also, the dates historically cited by third parties and those publicly available as the “exam release” are in fact the [AICPA score release dates](#).

In making the proposed changes to the 30-month window and how it is calculated, the Board achieves two important goals:

1. It significantly levels the path to licensure for candidates whose financial and personal circumstances make passing the exam in the shorter timeframe a potential hardship
2. It ensures that future Minnesota licensees/examinees are unlikely to encounter issues with gaining licensure in another jurisdiction.

## **PART 1105.2560 RENEWAL OF CERTIFICATES**

Item C contains a reference to part 1105.3000 that must be updated from item “J” to item “K” due to the proposed changes to that part.

## **PART 1105.3000, CONTINUING EDUCATION REQUIREMENTS**

In the Board’s most recent rule package, changes were made to create a uniform and maximum 120-hour, three-year rolling CPE requirement to maintain competency as an Active status CPA. While that language would seem to make it sufficiently clear that the CPE delinquency fee accrual in part 1105.3000, item E applies only to the most recent 120-hour/three-year period necessary to move from expired to Active status, there is room for misinterpretation, especially due to history:

Prior to the 2023 rule changes and a 2022 statute change, an individual whose license was expired would have been accountable all applicable fees if they requested license reactivation. However, by statute, an individual whose license was expired for more than two years automatically had their licensed revoked (no longer “expired” but “revoked”). Under auto revocation, no individual expired for more than two years *could* renew; they would instead request *reinstatement*, a different process resulting in the issuance of an Order for Reinstatement by the Board. The 2022 statute change removed the automatic revocation provision. The 2023 rule changes created a maximum 120-hour/ three-year rolling CPE requirement.

It is possible to interpret the part 1105, 3000, item E, as applying to *all years of nonrenewal*, which was not the Board’s intent. The maximum possible required fee for noncompliance intended under the new rule is \$1425 (worse-case noncompliance over three years). That is sufficient to deter individuals from attempting to step in and out of licensure to avoid the CPE requirement altogether. The Board considers an accrual that would be in excess of the three years as inconsistent with the intent of the

rest of CPE rule requirements and potentially punitive, particularly for individuals who simply left the CPA practice and now wish to return to it much later.

To avoid the potential for misinterpretation or misapplication, the Board proposes Item F, which makes the cap on CPE noncompliance fees explicit.

## CONCLUSION

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

March 29, 2024

Date

Doreen Johnson

Doreen Johnson  
Executive Director