

Notice of Agency Rule-making Proposal

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Accountancy

CHAPTER NUMBER AND TITLE:

Chapter 1 Definitions (amended)
Chapter 2 Advisory Rulings (amended)
Chapter 3 Examination Requirements (amended)
Chapter 4 Application for Certificate (repealed)
Chapter 5 Certified Public Accountant License Requirements (repealed and replaced)
Chapter 6 Accounting Firm License Requirements (amended)
Chapter 7 Complaints, Investigations and Adjudicatory Hearings (repealed)
Chapter 9 Fees (repealed)

PROPOSED RULE NUMBER (*leave blank; assigned by Secretary of State*):

CONTACT PERSON FOR THIS FILING: Cheryl Hersom, Board Administrator, 35 State House Station, Augusta, ME 04333, (207) 624-8605, cheryl.c.hersom@maine.gov

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different):

PUBLIC HEARING (if any): 9:00 a.m., May 25, 2010, Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: June 18, 2010

BRIEF *SUMMARY: The proposed rules: (a) eliminate the 2-step licensure process under which applicants were first issued a certificate and then a license, (b) eliminate the licensure of new public accountants (persons currently licensed as public accountants may renew indefinitely), (c) prorate the continuing education requirement for new licensees, (d) permit recognition of continuing professional education courses in 25-minute increments after the first 50 minutes, (e) clarify procedures for peer review of accounting firms, (f) require Report Acceptance bodies to act on peer review reports in a timely manner, (g) permit the board to terminate approval of a Report Acceptance Body for cause, and (h) delete obsolete provisions of the board's rules relating to board administration, the licensing examination, the board's complaint and investigation process, notification obligations of accounting firms, and the setting of license fees.

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): None

STATUTORY AUTHORITY FOR THIS RULE: 5 MRSA §§8051 and 9001(4); 32 MRSA §§12214(4); 12228(4); 12240(4); 12251(4); 12251(4)(A); 12251(5); 12252(2); 12252(8)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): PL 2009, c. 242, "An Act to Simplify Maine's Accountancy Laws"

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: jeffrey.m.frankel@maine.gov

* Check one of the following two boxes.

The above summary is for use in both the newspaper and website notices.

The above summary is for the newspaper notice only. A more detailed summary / basis statement is attached.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT _____ DATE: _____
(authorized signature)

| FUND | AGENCY | ORG | APP | JOB | OBJT | AMOUNT |
|------|--------|-----|-----|-----|------|--------|
|------|--------|-----|-----|-----|------|--------|

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

Chapter 1: DEFINITIONS

SUMMARY: This chapter outlines the definitions of the Maine Board of Accountancy.

As used in these Rules, unless the context indicates otherwise, the following terms have the following meanings:

1. AICPA. AICPA means the American Institute of Certified Public Accountants.
2. APPROVED REVIEWER. Approved Reviewer means an individual licensed by the Board, or by another jurisdiction, who has been approved by a Report Acceptance Body, to be responsible for conducting peer reviews of firms.
3. CONTACT HOURS.
 - A. CLASSROOM. Hours in the classroom which hourly period must include at least 50 minutes of continuous participation.
 - B. SELF-STUDY PROGRAMS. Hours of self-study recommended by the CPE sponsor for successful completion of the self-study course.
4. CPA. CPA means Certified Public Accountant.
5. CPE. CPE means Continuing Professional Education.
- 5-A. FIRM. Firm means an organization holding a license issued by the Board under 32 M.R.S.A. §12252. Solely for purposes of Peer Review, “Firm” means an organization licensed by the Board to engage in practice as Certified Public Accountants.
6. IQAB. IQAB means the International Qualifications Appraisal Board.
7. LICENSED. Licensed means holding a Permit to Practice issued by the Board.
8. ~~FIRM. Firm means an organization holding a license issued by the Board under 32 M.R.S.A. §12252. Solely, for purposes of Peer Review, “Firm” means an organization licensed by the Board to engage in practice as Certified Public Accountants.[repealed]~~
9. MULTI-JURISDICTIONAL FIRM. Multi-jurisdictional Firm means a firm with some members or employees who hold licenses issued by the Board and with other members or

- employees who hold licenses or permits to practice issued by one or more other jurisdictions.
10. NASBA. NASBA means the National Association of State Boards of Accountancy.
 11. NONDISCLOSED EXAMINATION. Nondisclosed examination means that CPA and PA candidates are not allowed to retain or receive their question booklets after the examination has been administered.
 12. OFF-SITE PEER REVIEW. Off-Site Peer Review means a peer review conducted outside of the office of a reviewed firm, which consists of reviewing selected financial statements, the reports thereon, and related documents to determine compliance with professional standards, sufficient to provide the Approved Reviewer with a reasonable basis upon which to issue a peer review report meeting the requirements of these rules.
 13. ON-SITE PEER REVIEW. On-Site Peer Review means a peer review conducted at the office of a reviewed firm, which includes testing compliance with the firm's quality control policies and procedures, and a review of selected engagements, sufficient to provide the Approved Reviewer with a reasonable basis upon which to issue a peer review report meeting the requirements of these rules.
 14. PA. PA means Public Accountant.
 15. ~~PERMIT TO PRACTICE. Permit to Practice means a license issued by the Board.~~[repealed]
 16. REPORT ACCEPTANCE BODY. Report Acceptance Body means a firm, professional society, or other organization approved by the Board to be responsible for the selection of Approved Reviewers, the acceptance of Peer Reviews and letters of comments issued by Approved Reviewers, and the consideration of any responses of a reviewed firm to its peer review.
 17. STATE. State means the State of Maine.
-

STATUTORY AUTHORITY: 32 M.R.S.A. §12214(4)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

Chapter 2: GENERAL INFORMATION ADVISORY RULINGS

SUMMARY: This rule establishes guidelines relating to ~~meetings~~, advisory rulings, and ~~maintenance of records~~.

1. MEETING NOTICES~~[repealed]~~

~~The Department shall be responsible for distributing meeting notices to the board members and to others as required by statute or rule. A notices will be provided to any person who requests a copy.~~

2. MEETING AGENDAS~~[repealed]~~

~~A. An agenda for meetings shall be prepared by the Department and shall include business requiring consideration or action by the board members. The agenda shall also include all business items requested by the Board members provided such request is received by the Board at least ten (10) days in advance of the meeting.~~

~~B. Business not included on the agenda may be considered following an affirmative vote of a majority of the board members present.~~

3. RECORDS~~[repealed]~~

~~The Department shall maintain a record of all business conducted by the Board and shall preserve, subject to the provisions of 5 M.R.S.A. Chapter 6, all books, documents and papers entrusted to their care. Records shall be opened to public inspection subject to 1 M.R.S.A. Chapter 13. Delays in making records available for inspection may be occasioned by action necessary to preserve the security of records, to obtain legal advice, or to avoid disrupting regular business activities and for these reasons, it is recommended that requests be submitted three (3) business days in advance of anticipated inspection.~~

~~Access to written communication with the Department of the Attorney General, criminal history records, materials relating to license examinations, pending complaints, and other records may be restricted subject to 1 M.R.S.A. Chapter 13 and other applicable laws.~~

4. ADVISORY RULINGS

- A. Authority and Scope. The Board may issue an advisory ruling pursuant to in accordance with 5-M-R-S-A. §9001, concerning the applicability of any a statute or rule it administers to an existing factual situationfacts. ~~Each request shall be reviewed individually by the Board~~The Board shall review each request for an advisory ruling to determine whether ~~an advisory~~the requested ruling is appropriate. The Board may, at its discretion, decline ~~the request for to issue~~ an advisory ruling if the request is hypothetical, if there is insufficient information upon which to base a ruling or for any other reason the board deems proper. ~~An advisory ruling is not legally binding upon the Board pursuant to 5 M.R.S.A. §9001 of the Administrative Procedure Act.~~
- B. Submission. A request for an advisory ~~rulings~~ruling shall must be submitted to the Board in writing and ~~shall must~~ set forth in detail all facts pertinent to the question. The Board may require ~~the~~ submission of additional information as it deems necessary to provide a complete a factual background ~~for a ruling by the Board~~.
- C. Ruling. An ~~advisory ruling shall be~~The Board shall issue advisory rulings in writing ~~and shall~~. The advisory ruling must include a statement of facts or assumptions, or both, upon which the ruling is based. The statement, without reference to other documents, ~~shall must~~ be sufficiently detailed to apprise the reader of the basis of the opinion. ~~An advisory~~The ruling ~~shall must~~ be signed by the ~~Chairperson of the Board~~ Chair, ~~shall must~~ be identified specifically as an advisory ruling, and ~~shall must~~ be numbered serially.
- D. Publication. ~~An advisory ruling~~The department shall ~~be mailed~~mail to the advisory ruling to the requesting party and ~~a copy shall be kept by~~ the Board Administrator shall retain a copy. An advisory ruling is a public documents and shall be available for public inspection during the normal working hours of the Board. In addition, the Board, ~~as it deems appropriate~~, may otherwise publish or circulate any advisory ruling as it deems appropriate.

STATUTORY AUTHORITY: 5 MRSA §§8051 and 9001(4)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

Chapter 3: EXAMINATION REQUIREMENTS

SUMMARY: This chapter outlines the eligibility requirements to sit for the Certified Public Accountant ~~and Public Accountant~~ examination ~~and the examination procedure~~.

1. APPLICATION FOR EXAMINATION

- A. Application to take the examination must be made on a form provided by the Board or the examination administrator.
- B. An application will not be considered filed until the examination fee and all required supporting documents have been received, including proof of identity as determined by the Board and specified on the application form, official transcripts and proof that the candidate has satisfied the education requirements of 32 M.R.S.A. ~~Sections §12228(3) or 12240(3)~~.
- C. A candidate who fails to appear for the examination ~~shall forfeit~~ forfeits all fees ~~charged for both the application and the examination paid~~. Specific requests for refund of the examination fee may be considered by the Board.
- D. The Board or ~~its designee~~ the examination administrator will forward notification of eligibility for the computer-based examination to NASBA's National Candidate Database.

2. ELIGIBILITY

- ~~A. — Certified Public Accountant. A candidate shall be~~ is eligible to take the examination without waiting until the candidate meets the experience requirements set forth in Chapter 5, Section 4 of the board's rules, provided the candidate meets the requirements of 32 M.R.S.A. §12228(3) and these rules.
- ~~B. Public Accountant. A candidate shall be eligible to take the examination without waiting until the candidate meets the experience requirements, provided the candidate meets the requirements of 32 M.R.S.A. §12240(3) and these rules. [repealed]~~

3. EDUCATIONAL REQUIREMENT

- A. ~~Certified Public Accountant.~~ Title 32 M.R.S.A. §12228(3) sets forth the education required of candidates applying for the CPA certification examination. ~~The 150 semester hours shall consist of at least 15 hours of accounting, auditing, and ethics which must include at least three hours of auditing and three hours of accounting.~~
- B. ~~Public Accountant. Title 32 M.R.S.A. §12240(3) sets forth the education required of candidates applying for PA certification.~~ [repealed]
- C. A college or university will be considered to be an "accredited college or university" if the college or university is accredited by an accrediting agency in good standing of the Council on Postsecondary Accreditation or equivalent agency. In the matter of foreign colleges or universities, the candidate shall submit his transcript to the Foreign Academic Credential Service or other service approved by the Board for its evaluation. Upon receipt of such evaluation, the Board shall determine the education qualification of such applicant.

4. ~~TIME AND PLACE OF EXAMINATION~~ [repealed]

~~Eligible candidates will be notified of the time and place of the examination or may independently contact a test center operator identified by the Board to schedule the time and place for the examination at an approved test site. Scheduling reexaminations must be done in accordance with Section 7 below.~~

5. EXAMINATION

The examination administered by the Board is the AICPA Uniform CPA examination. The examination tests the knowledge and skills required for performance as an entry-level certified public accountant or public accountant. ~~The examination includes the subject areas of accounting and auditing and related knowledge and skills as the Board may require.~~

6. DETERMINING AND REPORTING EXAMINATION GRADES

A candidate ~~shall be required to~~ must pass all test sections of the examination as provided for in Section 7(C) in order to qualify for a certificate 7 of this chapter. ~~Upon receipt of advisory grades from the examination provider, the Board will review and may adopt the examination grades and will report the official results to the candidate.~~ The passing grade for each test section ~~shall be~~ is 75.

7. RETAKE AND GRANTING OF CREDIT REQUIREMENTS

- A. A candidate may take the required test sections individually and in any order. Credit for any test section(s) passed ~~shall be~~ valid for eighteen (18) months from the actual date the candidate took that test section, ~~without having to attain a minimum score on any failed test section(s) and without regard to whether the candidate has taken other test sections.~~
1. Candidates must pass all four test sections of the Uniform CPA Examination within a rolling eighteen-(18) month period, which begins on the date that the first test section(s) passed is taken.
 2. Candidates cannot retake a failed test section in the same examination window. An examination window refers to a three-(3) month period in which candidates have an opportunity to take the examination (comprised of two months in which the examination is available to be taken and one month in which the examination will not be offered while routine maintenance is performed and the item bank is refreshed). Thus, candidates will be able to test two out of the three months within an examination window.
 3. In the event all test sections of the Uniform CPA Examination are not passed within the rolling eighteen-(18) month period, credit for any test sections(s) passed outside the eighteen-(18) month period will expire and such test section(s) must be retaken.
- B. ~~Candidates having earned conditional credits on the paper and pencil examination, as of the first date the computer-based Uniform CPA Examination is given, will retain conditional credits for the corresponding test sections of the computer-based examination as follows: [repealed]~~

| Paper and Pencil Examination | Computer-Based Examination |
|---|---|
| Auditing | Auditing and Attestation |
| Financial Accounting and Reporting (FARE) | Financial Accounting and Reporting |
| Accounting and Reporting (ARE) | Regulation |
| Business Law and Professional Responsibilities (LPR) | Business Environment and Concepts |

- ~~1. Candidates who have attained conditional credit as of the first date the computer-based Uniform CPA Examination is given will be allowed a transition period to complete any remaining test sections of the examination. A conditional candidate may take the examination as many times as he would have had remaining to complete all remaining test sections as of the first date of the computer-based examination. The candidate must also complete the examination within the time frame of six~~

~~months times that number of opportunities to pass all sections of the examination.~~

~~2. If a candidate previously earned conditional credit under the paper and pencil examination does not pass all remaining test sections during the transition period, conditional status earned will expire and the candidate will lose credit for the test sections earned under the paper and pencil examination.~~

- C. A candidate ~~shall retain~~retains credit for any and all test sections of an examination passed in another state if such credit would have been given, under ~~then then-~~applicable requirements, if the candidate had taken the examination in this State.
- D. The Board may, in particular cases, extend the term of conditional credit validity notwithstanding the requirements of subsections ~~A and B~~, upon a showing that the credit was lost by reason of circumstances beyond the candidate's control.
- E. A candidate shall be deemed to have passed the Uniform CPA Examination once the candidate holds at the same time valid credit for passing each of the four test sections of the examination. For purposes of this section, credit for passing a test section of the computer-based examination is valid from the actual date of the testing event for that test section, regardless of the date the candidate actually receives notice of the passing grade.

8. CANDIDATE TESTING FEE

For each test section scheduled by the candidate, the candidate shall pay to the Board or ~~its designee,~~the examination administrator a Candidate Testing Fee that includes the actual fees charged by the AICPA, NASBA, and the test delivery service provider.

9. CHEATING

- A. Cheating by a candidate in applying for, taking or subsequent to the examination will ~~be deemed to~~ invalidate any grade otherwise earned by a candidate on a test section of the examination, and may warrant summary expulsion from the test site and disqualification from taking the examination for a specified period of time.
- B. For purposes of this rule, the following actions or attempted activities, among others, may be considered cheating:
 - 1. Falsifying or misrepresenting educational credentials or other information required for admission to the examination;

2. Communication between candidates inside or outside the test site or copying another candidate's answers while the examination is in progress;
 3. Communication with others inside or outside the test site while the examination is in progress;
 4. Substitution of another person to sit in the test site in the stead of a candidate;
 5. Reference to crib sheets, textbooks or other material or electronic media (other than that provided to the candidate as part of the examination) inside or outside the test site while the examination is in progress;
 6. Violating the nondisclosure prohibitions of the examination or aiding or abetting another in doing so; and
 7. Retaking or attempting to retake a test section by an individual holding a valid certificate or by a candidate who has unexpired credit for having already passed the same test section, unless the individual has been directed to retake a test section pursuant to Board order.
- C. In any case where it appears that cheating has occurred or is occurring, the Board or its representatives may either summarily expel the candidate involved from the examination or move the candidate to a position in the test center away from other examinees where the candidate can be watched more closely.
- D. In any case where the Board believes that it has evidence that a candidate has cheated on the examination, including those cases where the candidate has been expelled from the examination, the Board shall conduct an investigation and may conduct a hearing consistent with the requirements of the Administrative Procedures Act following the examination session for the purpose of determining whether or not there was cheating, and if so what remedy should be applied. In such proceedings, the Board shall decide:
1. Whether the candidate shall be given credit for any portion of the examination completed in that session; and
 2. Whether the candidate shall be barred from taking the examination and if so, for what period of time.
- E. In any case where the Board or its representatives permits a candidate to continue taking the examination, it may, depending on the circumstances:
1. Admonish the candidate;

2. Seat the candidate in a segregated location for the rest of the examination; ~~and/or~~
 3. Keep a record of the candidate's seat location and identifying information, and the names and identifying information of the candidates in close proximity of the candidate-; ~~and~~
 4. Notify the National Candidate Database and the AICPA and/or the Test Center of the circumstances, so that the candidate may be more closely monitored in future examination sessions.
- F. In any case in which a candidate is refused credit for any test section of an examination taken, disqualified from taking any test section, or barred from taking the examination in the future, the Board will provide to any other state to which the candidate may apply for the examination information as to the Board's findings and actions taken.

10. SECURITY AND IRREGULARITIES

Notwithstanding any other provisions under these rules, the Board may postpone scheduled examinations, the release of grades, or the issuance of ~~certificates-a license~~ due to a breach of examination security; unauthorized acquisition or disclosure of the contents of an examination; suspected or actual negligence, errors, omissions, or irregularities in conducting an examination; or for any other reasonable cause or unforeseen circumstance.

STATUTORY AUTHORITY: 32 MRSA. §§12214(4), 12228(4), 12240(4)

EFFECTIVE DATE:

~~02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION~~~~280 BOARD OF ACCOUNTANCY~~~~Chapter 4: APPLICATION FOR CERTIFICATE~~

~~SUMMARY: This chapter sets forth the application process and the experience requirements for obtaining a certificate of “Certified Public Accountant” and “Public Accountant”.~~

~~Applications for a certificate of “Certified Public Accountant” under 32 M.R.S.A. §12228 or for a certificate of “Public Accountant” under 32 M.R.S.A. §12240 must be submitted on a form provided by the Board and must be accompanied by the application fee. A candidate applying for a certificate of “Certified Public Accountant” or “Public Accountant” must comply with the following requirements.~~

~~1. EXAMINATION~~

~~The candidate must have passed the examination as provided in Chapter 3.~~

~~2. EXPERIENCE~~

~~A candidate applying for a certificate of “Certified Public Accountant” under 32 M.R.S.A. §12228 must comply with the experience requirement of 32 M.R.S.A. §12228(10) and these rules. A candidate applying for a certificate of “Public Accountant” under 32 M.R.S.A. §12240 must comply with the experience requirements of 32 M.R.S.A. §12240(7) and these rules.~~

~~A. Experience in the practice of public accountancy must be under the supervision of an individual licensed to practice public accountancy by this or another state and must be such as to acquaint the individual with auditing and attesting to the accuracy and fairness of financial statements, with an independent state of mind.~~

~~B. This experience must include the following or an equivalent as determined by the Board:~~

~~1. Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records in accordance with Generally Accepted Accounting Principles;~~

~~2. Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records;~~

-
- ~~3. Experience in the preparation of written explanations and comments on the findings of the examination and on the content of the accounting records;~~
 - ~~4. Personal involvement in the preparation of audited financial statements in accordance with Generally Accepted Accounting Principles together with explanations and notes thereon and be such as to acquaint the individual with the preparation of the compilation and review of financial statements in accordance with generally accepted professional standards such as Statements on Standards for Accounting and Review Services;~~
 - ~~5. Involvement in the planning process of an audit;~~
 - ~~6. A minimum of 400 hours of experience in audit, review, or compilation procedures; and~~
 - ~~7. A minimum of 200 hours of experience in at least one of the following: the provision of management advisory, financial advisory or consulting services, the preparation of tax returns, or the furnishing of advice on tax matters.~~
- ~~C. The Board may give credit for non-public accounting experience if it is determined to be substantially equivalent to the experience set forth in these Rules.~~
- ~~D. For purposes of computing experience for part-time employees, 2,080 hours of work experience constitutes one (1) year of experience and 173 hours of part-time employment constitutes one (1) month of experience.~~
- ~~E. The required experience shall be verified by the completion of a form provided by the Board. The Board may, at its discretion, request further documentation to verify such experience.~~
-

STATUTORY AUTHORITY: 32 M.R.S.A. §12214(4), §12228(10), §12240(2)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

Chapter 5: CERTIFIED PUBLIC ACCOUNTANT LICENSE REQUIREMENTS

SUMMARY: This chapter sets forth: (a) the application process and experience requirements for obtaining a certified public accountant license, and (b) the continuing professional education and renewal requirements for maintaining licensure.

1. APPLICATION FOR LICENSURE

Applications for licensure as a certified public accountant under 32 MRSA §12228 must be submitted on a form provided by the Board and must be accompanied by the license fee set forth in Chapter 10, Section 5(1) of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees.”

2. EXAMINATION

The applicant must have passed the examination as provided in Chapter 3, Sections 6 and 7 of the Board’s rules.

3. EDUCATION

The applicant must meet the educational requirements set forth in 32 MRSA §12228(3). The 150 semester hours required by 32 MRSA §12228(3) must include a minimum of 15 hours in accounting, auditing, and ethics combined, of which at least three hours were earned in auditing and at least three hours were earned in accounting.

4. EXPERIENCE

An applicant applying for licensure as a certified public accountant under 32 MRSA §12228 must comply with the experience requirement of 32 MRSA §12228(10) and this Section.

A. Experience in the practice of public accountancy must be under the supervision of an individual licensed to practice public accountancy by this or another state and must be such as to acquaint the individual with auditing and attesting to the accuracy and fairness of financial statements, with an independent state of mind.

- B. This experience must include the following or an equivalent as determined by the Board:
1. Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records in accordance with Generally Accepted Accounting Principles;
 2. Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records;
 3. Experience in the preparation of written explanations and comments on the findings of the examination and on the content of the accounting records;
 4. Personal involvement in the preparation of audited financial statements in accordance with Generally Accepted Accounting Principles together with explanations and notes thereon and be such as to acquaint the individual with the preparation of financial statements in accordance with generally accepted professional standards such as Statements on Standards for Accounting and Review Services;
 5. Involvement in the planning process of an audit;
 6. A minimum of 400 hours of experience in audit, review, or compilation procedures; and
 7. A minimum of 200 hours of combined experience in one or more of the following:
 - a. The provision of management advisory, financial advisory or consulting services;
 - b. The preparation of tax returns; or
 - c. The furnishing of advice on tax matters.
- C. The Board may give credit for non-public accounting experience that it determines to be substantially equivalent to the experience required by this Section.
- D. For purposes of computing experience for part-time employees, 2,080 hours of work experience constitutes one (1) year of experience and 173 hours of part-time employment constitutes one (1) month of experience.
- E. The required experience shall be verified by the completion of a form provided by the Board. The Board may, at its discretion, request further documentation to verify such experience.
5. APPLICANTS HOLDING CREDENTIALS FROM ANOTHER COUNTRY

A. The Board recognizes the existence of the International Qualifications Appraisal Board (IQAB), a joint body of NASBA and the AICPA, which is charged with:

1. Evaluating the professional credentialing process of certified public accountants, or their equivalents, of countries other than the United States; and
2. Negotiating principles of reciprocity agreements with the appropriate professional and/or governmental bodies of other countries seeking recognition as having requirements substantially equivalent to U.S. requirements for the certificate of a certified public accountant.

B. The Board shall give consideration to the terms of all principles of reciprocity agreements issued by IQAB.

6. LICENSE RENEWAL

A. Expiration. All licenses issued under this chapter expire on September 30 of each year.

B. Renewal. To renew a license, the licensee shall follow the on line renewal procedure prescribed by the board and shall remit the license fee set forth in Chapter 10, Section 5(1) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees."

C. Late Renewal. A license may be renewed on line up to 90 days after expiration upon payment of the late fee set forth in Chapter 11, Section 2(1) of the rules of the Office of Licensing and Registration, entitled "Late Renewals," in addition to the renewal fee.

7. LICENSE REINSTATEMENT

A former licensee who applies for reinstatement pursuant to 32 MRSA §12234(2) shall demonstrate completion of 80 hours of continuing professional education in the 24 months preceding application that meets the requirements of Section 8 of this chapter. The 80 hours of continuing professional education must include four hours of ethics.

8. CONTINUING PROFESSIONAL EDUCATION

A. Except as set forth in the next paragraph, all licensees shall obtain 40 hours of CPE annually, due at time of renewal. The annual accumulation period for CPE is the twelve month licensure period beginning on October 1 and ending on September 30

of the following calendar year. If a licensee obtains more than 40 hours of CPE in any licensure period, no more than 20 hours of such excess may be carried forward and utilized in the immediately succeeding licensure period. (For example, an individual who obtains 70 hours of CPE in one year and 30 hours in the succeeding year has 30 excess hours in the first year. The licensee may carry forward 20 hours from the first year to the second in order to make up a deficiency and satisfy the CPE requirement for the second year. However, the licensee may not carry any of the excess from the first year to satisfy the CPE requirement in any subsequent year.)

A person whose initial license is issued between October 1 and March 31 shall complete 20 hours of CPE during the licensee's initial license term ending on September 30. A person whose initial license is issued between April 1 and September 30 need not complete any CPE during the licensee's initial license term ending on September 30.

- B. All licensees shall obtain at least 4 hours of CPE in professional ethics every three years, beginning with the date of first renewal. Acceptable CPE in ethics may include a program of study of the accountancy laws and rules of the State of Maine, including the Rules of Professional Conduct set forth in Chapter 8 of the board's rules, or equivalent standards of the Securities Exchange Commission, the AICPA, or similar regulatory agency or professional organization.
- C. The Board may verify information submitted by an applicant by whatever means it deems appropriate.
- D. Notwithstanding Chapter 13, Section 4 of the rules of the Office of Licensing and Registration, entitled "Uniform Rule for the Substantiation of Continuing Education Requirements," licensees shall retain documentation of compliance with the CPE requirement, including professional ethics, for the three annual licensure periods that immediately precede the current licensure period on a rolling basis.

9. CPE PROGRAM REQUIREMENTS

A. PROGRAMS WHICH QUALIFY

A specific program will qualify as acceptable CPE if it is a formal program of learning which contributes directly to the professional competence of a licensee in public practice. It is left to the individual licensee to determine the course of study to be pursued.

1. ACCEPTABLE PROGRAMS. The following are deemed to qualify as acceptable CPE programs:

- a. Professional development programs of state and national professional accounting societies or institutes;
- b. Accredited university or college credit or non-credit courses;
- c. Formal correspondence or other individual study programs. Such programs must require registration and provide evidence of satisfactory completion.
- d. Formal organized in-firm education programs;
- e. Meetings of the National Association of State Boards of Accountancy (NASBA); and
- f. Other formal, organized educational programs.

B. PROGRAMS WHICH DO NOT QUALIFY

1. Any program or course specifically designed to prepare for the taking of the CPA examination.
2. Committee service of professional organizations.

C. STANDARDS FOR CPE PROGRAMS

1. STANDARDS FOR CPE PROGRAM DEVELOPMENT

- a. The program must contribute to the professional competence of participants.
- b. The program must be developed by persons qualified in the subject matter and in instructional design.
- c. Program content must be current.
- d. The program must be reviewed by a qualified person other than the preparer to ensure compliance with the above standards.

2. STANDARDS FOR CPE PROGRAM PRESENTATION

- a. Instructors, facilitators and speakers must be qualified both with respect to program content and teaching methods used. They are considered qualified if through formal training and experience they have obtained sufficient knowledge to instruct the course competently.

b. The number of participants and physical facilities must be consistent with the teaching method specified.

c. The program must include some means for evaluating quality.

3. STANDARDS FOR CPE REPORTING

a. Participants in group or self-study programs must document their participation including: (i) sponsor; (ii) title and/or description of content; (iii) date(s); (iv) location; and (v) number of CPE contact hours.

b. In order to support the reports that may be required of participants, the sponsor of group or self-study programs must retain following the completion of any program: (i) record of participation; (ii) outline of the course (or equivalent); (iii) date(s); (iv) location; (v) instructor(s); and (vi) number of CPE contact hours. An outline is a schedule of activity listing major topics of discussion that is prepared in advance.

c. Participants at NASBA meetings must document the meeting agenda(s).

4. SUBJECT MATTER

a. The following subject matters are acceptable without limitation:

i. Accounting, Auditing and Ethics

ii. Specialized Accounting Areas of Industry

iii. Administrative Practices

iv. Taxation

v. Management Services

b. Credit for the following subject matters may not exceed 50% of the hours required by this chapter:

i. Communication Arts

ii. Mathematics, Statistics, Probability and Quantitative Applications in Business

iii. Economics

iv. Business, Securities and Administrative Law

v. Human Resources Policies

vi. Computer Software Applications

Areas other than those listed above may be acceptable if the licensee can demonstrate to the Board that they contribute to the licensee's professional competence.

5. MEASUREMENT. Professional education courses shall be credited for continuing education purposes in one-half CPE credit increments (equal to 25 minutes) after the first credit has been earned in a given learning activity. A course participant must attend substantially an entire course to be granted credit for the entire course and, if a record of registration and attendance is not maintained by the sponsoring organization, the course participant must be able to prove registration and attendance.

6. INSTRUCTORS. Credit as an instructor, discussion leader, or speaker will be allowed for any meeting, program, or engagement provided that the session is one that would meet the CPE requirements of those attending. An instructor, discussion leader, or a speaker will be credited for the first presentation only, and on a basis of 3 hours for each hour of class time. However, those credits may not exceed 50% of the hours required by these rules. To the extent a course or program has been substantially revised, the revised course shall be considered a first presentation.

7. PUBLICATIONS. Credit may be allowed for published articles and books provided they contribute to the professional competence of the licensee. Credit for preparation of such publications may be given on a self-declaration basis of up to 50% of the renewal requirement. In exceptional circumstances a licensee may request additional credit by submitting the article(s) or book(s) to the Board with an explanation of the circumstances which the licensee feels justify a greater credit.

8. ASSISTANCE TO THE BOARD. The Board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

D. CERTIFICATION AND AUDIT

All licensees must certify at time of renewal to completion of the continuing professional education required by this chapter. The licensee's certification is subject to audit as set forth

in Chapter 13 of the rules of the Office of Licensing and Registration, entitled “Uniform Rule for the Substantiation of Continuing Education Requirements.”

STATUTORY AUTHORITY: 32 M.R.S.A. §12214(4), §12251(4), 12251(4)(A), §12251(5)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

280 BOARD OF ACCOUNTANCY

Chapter 6: PERMITS TO PRACTICE, FIRMS ACCOUNTING FIRM LICENSE REQUIREMENTS

SUMMARY: This chapter outlines the requirements of firm permits/licenses.

1. PERMITS REQUIRED APPLICATION FOR LICENSURE.

- A. ~~All firms which provide accounting services for which a license is required pursuant to the law, to clients with principal offices in this State must be licensed by the Board, regardless of whether the firm itself is located in this State. All accounting firms, including sole proprietorships, must apply for and maintain a firm license when licensure is required by 32 MRSA §12252(1)(A). Applications for licensure as an accounting firm must be submitted on a form provided by the Board and must be accompanied by the license fee set forth in Chapter 10, Section 5(1) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees."~~
- ~~B. — Applications for initial issuance or renewal of Permits to Practice must indicate the name and individual permit number, and the name of the jurisdiction that issued the permit, of each licensed partner, member, officer or shareholder who regularly works in this State, and the name and individual permit number, and the name of the jurisdiction that issued the permit, of each licensed employee holding a certificate who regularly works in this State. [repealed]~~
- C. An individual who is responsible for the conduct of any engagement to deliver accounting services for which a license is required pursuant to the law, to clients with principal offices in this State, ~~shall be~~ deemed to regularly work in this State.
- D. ~~Applications~~ An applicant for ~~initial issuance or renewal of Permits to Practice a firm license~~ must provide the information required by 32 MRSA §12252(3)(A) and must indicate all other states or jurisdictions in which the applicant-firm has applied for; or holds, ~~permits to practice public accountancy a license.~~

2. FIRMS WITH UNLICENSED OWNERS AND AGENTS

- A. Firms may be licensed if a simple majority, in terms of financial interests and voting rights, of its owners consists of individuals licensed by the Board or by other

states, and if all unlicensed owners are individuals whose primary occupation consists of participation in the business of the firm. In order to evaluate applications for issuance or renewal of licenses of firms, the Board may require explanation and documentation of relationships (including without limitation “employee leasing,” subcontracting for services, and the provision of administrative or clerical services) between the applicant and any other business entity, and may require substantiation of the nature and extent of nonlicensee owners’ participation in the business of the firm.

- B. All unlicensed owners and agents of firms shall comply with the rules and professional standards applicable to licensed owners.
- C. Aside from any possible disciplinary action brought by the Board against any individual licensee, the Board may bring disciplinary action against the firm with respect to violations of applicable statutes or these rules by licensed or unlicensed partners, employees, or agents of the firm.

3. PEER REVIEW

A. PEER REVIEW CERTIFICATION AND COMPLIANCE REQUIREMENTS

- 1. ~~Effective January 1, 2001, every~~Every firm, as a condition ~~for of~~ the issuance or renewal of its license to practice public accountancy, must certify to the Board either:
 - a. ~~That the firm has completed a peer review within the time required by 32 M.R.S.A. §12252(8)(A) which has been accepted by a Report Acceptance Body (or, for a Multi-Jurisdictional Firm, a peer review which meets the requirements of Section 3(I)) that such firm is in compliance with the terms of any peer review report and any actions mandated by the Report Acceptance Body, and shall provide a copy of its accepted peer review report to the Board; or~~
 - a. That the firm, within the time required by 32 MRSA §12252(8)(A), unless extended pursuant to Section 3(F) of this chapter, has completed the peer review required by this Section and is either in compliance with the terms of the acceptance letter from the Report Acceptance Body or has requested review by the Board pursuant to Section 3(E) of this chapter; or
 - b. That the firm conducts no defined services other than compilations.

A certification made pursuant to Section 3(A)(1)(a) of this chapter must be accompanied by the acceptance letter from the Report Acceptance Body.

2. If the firm conducts a defined service other than compilations after certifying to the Board under section 3(A)(1)(b) that it does not conduct defined services, the firm must complete a peer review within the time specified by 32 M.R.S.A. §12252(8)(B).
3. In the event that a firm's obligation to participate in an approved peer review program under 32 M.R.S.A. §12252(8) arises because the defined service provided by the firm includes audit engagements, the approved peer review program under these rules shall be an On-Site Peer Review. In the event that the defined service provided by the firm does not include audit engagements, the approved peer review program under these rules may be an Off-Site Peer Review.
4. Every firm must cooperate with the Approved Reviewer, the Report Acceptance Body, and the Board, and take all steps necessary, including the payment of all costs and fees relating to the peer review, to comply with the peer review requirement.
5. In addition to being grounds for denial of a permit license, it shall also be grounds for disciplinary action pursuant to 32 MRSA §12273(1)(C) for a firm to fail to comply with the terms of a peer review report accepted by a Report Acceptance Body, to fail to cooperate with the Approved Reviewer, the Report Acceptance Body or the Board, or to in any other manner fail to comply with the peer review requirements of these rules.

B. QUALIFICATIONS OF APPROVED REVIEWERS

1. An Approved Reviewer must meet the following minimum qualifications:
 - a. Hold a current individual permit license issued by the Board, or by another state;
 - b. Possess at least 5 years of current experience in the practice of public accountancy in the accounting and auditing function;
 - c. Be independent from, and have no conflict of interest with, the licensee being reviewed; and
 - d. Be familiar with all specialized services in the area of accounting and auditing provided by the firm being reviewed.
2. To be qualified as an Approved Reviewer, an individual must provide a Report Acceptance Body with documentation of his or her qualifications, (as stated above), and such other information requested by the Report Acceptance Body.

3. A Report Acceptance Body, in its discretion, may terminate the appointment of an individual to act as an Approved Reviewer.

C. CONDUCT OF PEER REVIEWS

1. In the case of a firm which undergoes a peer review, upon completion of the review, the Approved Reviewer shall write a peer review report which, at a minimum, sets forth the nature (On-Site or Off-Site) and scope of the peer review, including any limitations thereon, and the standards under which the peer review was performed. On-Site peer review reports shall, at a minimum, set forth an opinion on whether, during the period under review, the system of quality control for the accounting and auditing practice of the reviewed firm met generally accepted quality control standards and whether that system of quality control was being followed sufficiently to provide the Approved Reviewer with reasonable assurance that the firm was conforming with generally accepted quality control and professional standards. Off-Site peer review reports shall indicate that the financial statements and review reports submitted for review conformed to professional standards of reporting, or, if not, shall describe significant departures from those standards.
2. The peer review report shall also describe the reason for any qualification or limitation of the report and set forth any corrective measures to be undertaken by the firm to address any issues identified by the peer review.
3. Upon completion of the peer review and preparation of the peer review report, the Approved Reviewer shall issue a copy of the peer review report to the firm and to a Report Acceptance Body. The Report Acceptance Body shall act on the peer review report in a timely manner.

D. QUALIFICATIONS OF REPORT ACCEPTANCE BODIES

1. The Board shall approve one or more entities to function as Report Acceptance Bodies.
2. Report Acceptance Bodies must meet the following qualifications:
 - a. Any employee, agent or representative of a Report Acceptance Body who is involved in any decision relating to the conduct of a peer review engagement, shall be independent of the reviewed firm.
 - b. The organization must be competent to undertake the tasks required of Report Acceptance Bodies. Such competence may be demonstrated by proof of approval to serve in comparable capacities by a national professional organization, or regulatory

boards of other jurisdictions. Competence may also be demonstrated by submission to the Board of:

- i. Resumes of the individuals proposed to execute the Report Acceptance Body's tasks, which must include their experience in accounting and auditing functions, and other peer review activities;
 - ii. Standards by which Approved Reviewers will be approved and evaluated;
 - iii. Minimum requirements of peer review programs;
 - iv. Procedures for resolution of disputes between Approved Reviewers and reviewed firms; and
 - v. Proof of such other qualifications as may be required by the Board.
3. The Board may, ~~in its discretion~~, terminate its approval of a Report Acceptance Body for cause following notice and opportunity for hearing. For purposes of this paragraph, "cause" includes but is not limited to failure of a Report Acceptance Body to maintain ongoing compliance with the requirements of this chapter.

E. REVIEW OF PEER REVIEW REPORTS BY THE BOARD

A reviewed firm may request ~~reconsideration-review~~ of the action of a Report Acceptance Body by the Board. The Board may accept, alter, or reject and return for further review, any action of a Report Acceptance Body. If the Board proposes to accept the action of the Report Acceptance Body without any modification requested by the reviewed firm, the Board shall afford the reviewed firm the opportunity for an adjudicatory hearing. To be effective, the request for hearing must be received by the Board within 30 days of the reviewed firm's receipt of notice from the Board.

F. EXTENSIONS

1. The Board may grant an extension of time not to exceed 12 months to meet the peer review requirement for the following reasons:
 - a. Health;
 - b. Military service; or

- c. Other good cause clearly outside of the control of the reviewed firm.
2. Requests for extensions of time shall be in writing and submitted with the renewal form no later than its due date.
3. An extension may be renewed upon application received by the Board prior to the expiration of the current extension, if the Board finds that the reasons justifying the extension continue to exist.

G. REVIEW OF MULTI-JURISDICTIONAL FIRMS

1. The Board may accept a peer review of a Multi-jurisdictional firm, which is based solely upon work conducted outside of Maine as satisfying the peer review requirement, if:
 - a. the peer review was conducted within 3 years of the effective date of the renewal;
 - b. the peer review was performed in accordance with requirements equivalent to those of the Board;
 - c. the peer review studies, evaluates and reports on the financial reporting practice of the firm as a whole; and
 - d. at the conclusion of the peer review, the reviewer issues a report meeting the requirements of these rules.
2. A Multi-jurisdictional firm seeking approval of a peer review must submit evidence that the proposed peer review was conducted under requirements equivalent to those of the Board, certification by the reviewer that the review was based solely on work conducted outside of Maine, and a report equivalent to the report required by these rules, with its application for renewal.

4. LICENSE ~~EXPIRATION~~RENEWAL

~~The Commissioner has determined that Permits to Practice shall expire on December 31 following issuance or renewal.~~

A. Expiration. All firm licenses expire on December 31 of each year.

B. Renewal. Applications for renewal of a firm license must be submitted on a form provided by the board and must be accompanied by the license fee set forth in

Chapter 10, Section 5(1) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees."

- C. Late Renewal. A firm license may be renewed up to 90 days after expiration upon payment of the late fee set forth in Chapter 11, Section 2(1) of the rules of the Office of Licensing and Registration, entitled "Late Renewals," in addition to the renewal fee. Renewal of a firm license that has expired for more than 90 days is governed by 32 MRSA §12252(2).

5. ~~CHANGE OF IDENTITY, LOCATION, OR FORM OF ORGANIZATION[repealed]~~

~~Every firm holding a valid permit issued by the Board shall notify the Board in writing of the following changes no later than 30 days after the effective date of such changes:~~

- ~~A. Change or modification of firm name;~~
- ~~B. Change of business address;~~
- ~~C. Establishment of new or additional office(s);~~
- ~~D. Change of organizational form (sole proprietorship, partnership, corporation or any other form or organization);~~
- ~~E. Change of ownership (partners, members, shareholders, merger, reorganization, acquisition); or~~
- ~~F. In the case of firms without offices in this State, any change in the list of partners, members, officers, shareholders or employees who regularly work in this State.~~

STATUTORY AUTHORITY: 32 M.R.S.A. §12214(4), §12252(2), §12252(8)

EFFECTIVE DATE:

~~02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION~~

~~280 BOARD OF ACCOUNTANCY~~

~~Chapter 7: COMPLAINTS, INVESTIGATIONS AND ADJUDICATORY HEARINGS~~

~~SUMMARY: This Chapter describes the procedure by which complaints and adjudicatory hearings will be handled by the Board.~~

~~1. WRITTEN COMPLAINTS~~

~~Complaints are filed in accordance with procedures established by the Department of Professional & Financial Regulation, Office of Licensing & Registration. To receive a copy of the complaint procedure or to file a written complaint, contact:~~

~~Office of Licensing & Registration
Complaints & Investigations Unit
35 State House Station
Augusta, ME 04333-0035
Tel: 207/624-8603~~

~~2. OTHER INVESTIGATIONS~~

~~An investigation may be conducted based upon information other than a written complaint, if such information provides evidence of a violation of 32 M.R.S.A. Chapter 113 or if the information raises a substantial question regarding the qualifications of any applicant or licensee.~~

~~3. BOARD MEMBER REQUEST FOR INVESTIGATION~~

~~A member of the Board may file a complaint or request an investigation, but such complaint or request shall serve to disqualify that member from participating in the Board's disposition of that complaint. The complaining Board member shall be prohibited from discussing the issue with other members, except as a witness, until after final agency action and the time for appeal has lapsed or appeal rights have been exhausted.~~

~~4. PROHIBITED COMMUNICATIONS~~

~~The Board members shall avoid discussing, except with adequate notice and opportunity for all parties to participate, any specific case under investigation, or any case which may reasonably be expected to be the subject of investigations, until after final agency action and the time for filing an appeal has lapsed or appeal remedies have been exhausted, except in accordance with the Standard Complaint Procedure of the Department of Professional and Financial Regulation, Office of Licensing and Registration. This rule shall not be construed to limit the Board members at a Board meeting from discussions among themselves or with the attorney for the Board. This rule shall not be construed to limit communications regarding matters which have reached final disposition, investigatory procedures in general, inquiries regarding the procedural status of a specific case, or other matters not relating to issues of fact or law concerning a specific case.~~

~~5. ADJUDICATORY HEARINGS~~

~~Board hearings shall conform to the requirements of the Maine Administrative Procedure Act, 5 M.R.S.A. Chapter 375.~~

STATUTORY AUTHORITY: 32 M.R.S.A. §12214(4)

EFFECTIVE DATE:

~~02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION~~

~~280 BOARD OF ACCOUNTANCY~~

~~Chapter 9: FEES~~

~~Summary: This Chapter sets forth the fees to be charged by the Board.~~

~~1. EXAMINATION FEE.~~

~~The examination and reexamination fee for CPAs and PAs shall be the amount set by the testing service at the time of examination.~~

~~2. PERMIT FEES.~~

| | |
|-------------------------------|--------------------|
| Individual | \$70.00 |
| Firm | \$25.00 |
| Firm branch office | \$15.00 |

~~3. PERMIT RENEWAL FEES.~~

| | |
|-------------------------------|--------------------|
| Individual | \$50.00 |
| Firm | \$25.00 |
| Firm branch office | \$15.00 |

~~4. RECIPROCITY.~~

| | |
|--|--------------------|
| Reciprocity and Transfer of Credits | \$50.00 |
|--|--------------------|

~~5. CERTIFICATE.~~

| | |
|---|--------------------|
| Certificate for applicants who took the examination or any portion of the examination in another state or jurisdiction | \$50.00 |
|---|--------------------|

| | |
|---|--------------------|
| 6. DUPLICATE LICENSE OR CERTIFICATE FEE. | \$10.00 |
|---|--------------------|

STATUTORY AUTHORITY: 32 M.R.S.A. §12214(4), §12228(8), §12228(9), §12240(6),
§12251(2), §12252(5)

EFFECTIVE DATE: