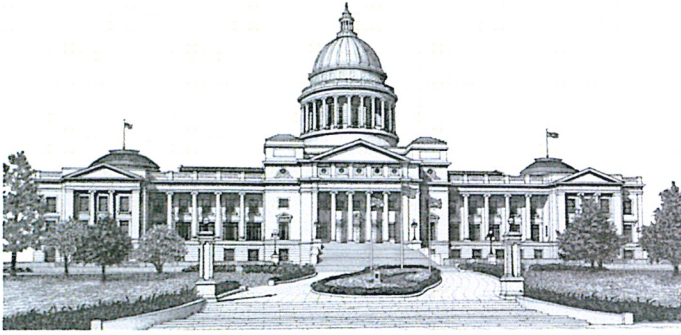


# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas State Board of Public Accountancy

Department NA

Contact Jimmy Corley E-mail james.s.corley@arkansas.gov Phone 501. 682. 5533

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Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Jimmy Corley james.s.corley@arkansas.gov 2/16/16  
Contact Person E-mail Address Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Jimmy Corley  
Signature  
501 682 5533 james.s.corley@arkansas.gov  
Phone Number E-mail Address  
Executive Director  
Title  
2/16/16  
Date

# ARKANSAS STATE BOARD OF PUBLIC ACCOUNTANCY

Rules and Regulations  
Effective February 26, 2016  
Except as Otherwise Noted

Code of Professional Conduct  
Effective August 17, 2013  
Except as Otherwise Noted



101 East Capitol Avenue, Suite 450  
Little Rock, Arkansas 72201

## Table of Contents

### Rule 1

#### I. Definitions

1.1	Act, Board, State, Examination, Pronouns.....	1
1.2	Attest.....	1
1.3	Certificate .....	1
1.4	Client.....	1
1.5	Commission .....	1
1.6	Compilation .....	1
1.7	Financial Statements.....	1
1.8	Firm.....	2
1.9	Generally Accepted Accounting Principles.....	2
1.10	Generally Accepted Auditing Standards.....	2
1.11	Home Office .....	2
1.12	Licensee.....	2
1.13	Peer Review .....	2
1.14	Permit to Practice .....	2
1.15	Practice of, or Practicing Public Accounting .....	3
1.16	Principal Place of Business .....	3
1.17	Professional Services .....	3
1.18	Public Communication .....	3
1.19	Returning Military Veteran.....	3
1.20	Substantial Equivalency.....	3
1.21	UAA.....	3

### Rule 2

#### II. Board Rules and Meetings

2.1	Board of Public Accountancy.....	4
2.2	Rules and Regulations.....	4
2.3	Annual Meeting .....	4
2.4	Other Meetings .....	4
2.5	Rules of Order .....	4
2.6	Open Meetings .....	4
2.7	Rules of Conduct .....	4

**Rule 3**

III. Examinations

3.1	Semester Hour; Accredited Colleges, Universities, Schools and Programs; Credit for Courses.....	5
3.2	Education Requirement .....	6
3.3	Applications for Examination .....	7
3.4	Time and Place of Examination .....	7
3.5	Examination Content.....	7
3.6	Determining and Reporting Examination Grades.....	8
3.7	Retake and Granting of Credit Requirements .....	8
3.8	Candidate Testing Fee .....	8
3.9	Cheating .....	9
3.10	Security and Irregularities .....	10
3.11	Education Requirement for Licensure.....	10
3.12	Requirements for Relicensure.....	10

**Rule 4**

IV. Reciprocity

4.1	Qualifications for Issuance of a Reciprocal Certificate.....	11
4.2	Reciprocal Certificate Fee .....	11
4.3	Application for a Reciprocal Certificate .....	11

**Rule 5**

V. Foreign Accountants

5.1	Qualifications for issuance of a Reciprocal Certificate to holder of a substantially equivalent foreign designation .....	12
5.2	Background Check Requirement .....	12

**Rule 6**

VI. Practice Under Substantial Equivalency

6.1	Individuals and firms practicing under substantial equivalency .....	13
6.2	Disclosure of state of licensure by individuals or firms with practice privilege .....	15
6.3	Individuals ineligible for practice privilege .....	15

**Rule 7**

VII. Ownership of Firms

7.1	Definitions .....	17
7.2	Corporations .....	17
7.3	Partnerships, Corporations, Limited Liability Companies, Sole Proprietorships and Other Permissible Forms of Practice; General Requirements; Ownership .....	17

7.4	Application Procedures; Forms .....	18
7.5	Non-resident Public Accountants .....	19
7.6	Practice Privileges for Out-of-State Certified Public Accounting Firms .....	19
7.7	Notification of Firm Changes.....	20

**Rule 8**

VIII. Professional Standards

8.1	Compliance with Professional Standards .....	21
8.2	“Professional Standards” definitions .....	21
8.3	Records Retention .....	21

**Rule 9**

IX. Communications, Change of Address or Business Affiliation

9.1	Notice of New Residence or Business Address, or Address of Additional Office; Notice of Closing of Office; Return of Certificate of Registration .....	23
9.2	Notice of Change of Employment or Business Affiliation and of Employer or Business Affiliate Address .....	23
9.3	Supervised Permit of Firm Operations Upon Death, Incapacity or Bankruptcy.....	23

**Rule 10**

X. Registration

10.1	Initial Application, Reciprocal, or Reinstatement .....	24
10.2	Criminal Background Checks .....	24
10.3	License Renewal .....	24
10.4	Repealed Rule.....	25
10.5	Firm Registration .....	25
10.6	Temporary Licensure.....	25

**Rule 11**

XI. Hearings Before Board-Notice-Procedure-Review

11.1	Investigations .....	26
11.2	Compliance Committee Recommendation .....	26
11.3	Computation of Time .....	27
11.4	Subpoenas .....	28
11.5	Hearings Before the Board .....	28
11.6	Hearings Before a Hearing Examiner or Member of the Board .....	28
11.7	Review of Hearing Examiner’s or Member of the Board’s Report .....	29
11.8	Disposition of Procedural Requests .....	29
11.9	Evidence .....	30
11.10	Record of Proceedings .....	30
11.11	Publication of Disciplinary Sanctions.....	30

**Rule 12**

XII. Fees

CPA Examination, Application Fees, Annual Registration Fees, .....31  
Quality Review.....32

**Rule 13**

XIII. Continuing Education

13.1 Definitions That Are Applicable to Rule 13 .....33  
13.2 Basic Requirements .....33  
13.3 Programs Which Qualify .....34  
13.4 Approved Sponsors .....36  
13.5 CPE Reporting Requirements .....37  
13.6 Non-compliance and Sanctions .....38  
13.7 Inactive Status .....38  
13.8 Inactive/Retired .....39  
13.9 Activation of Delinquent, Suspended or Revoked Licenses .....40

**Rule 14**

XIV. Quality Review Program

14.1 Purpose of the Quality Review Program .....41  
14.2 Quality Review Committee .....41  
14.3 QR Survey .....42  
14.4 QR Reviewers .....42  
14.5 Team Captains .....43  
14.6 QR Consultant .....43  
14.7 QR Procedure .....43  
14.8 QR Classifications .....44  
14.9 Notification and Response .....44  
14.10 Pre-Issuance Review Procedures .....47  
14.11 Peer Reviewer Standards .....48

**Rule 15**

XV. Safe Harbor Language

15.1 Non-Licensees – Issuance of Compilation Reports; as Prescribed by Statements on Standards for Accounting and Review Services (SSARS); and Performed in Accordance with Standards Established by the AICPA; and pursuant to A.C. A. § 17-107(b).....49  
15.2 Non-Licensees Disclaimer Language – Compilations.....49  
15.3 Non-Licensees Disclaimer Language – Use of title “Auditor” or “Accountant” .....49

**Rule 16**

XVI. Experience Required

Experience Required .....50

**Rule 17**

XVII. Investigation Costs

Investigation Costs .....51

**Rule 18**

XVIII. Declaratory Orders

18.1 Issuance of Declaratory Orders.....52  
18.2 Declaratory Orders Approved by the Board.....52  
18.3 Form of Declaratory Orders.....52  
18.4 Records.....52  
18.5 Effect of Orders.....53

**Rule 19**

XIV. Licensure for Active Duty Service Members, Returning Military Veterans, and Spouses

19.1 Temporary Licensure.....54  
19.2 Expedited Processing for full Licensure.....54  
19.3 Consideration of Military Training and Experience.....54  
19.4 Extension of Expiration Date of License.....55

**Appendix One**

Physical Address of the Arkansas State Board of Public Accountancy .....56

**Appendix Two**

Code of Professional Conduct .....56

Preamble.....56

Rules of Conduct

Rule 101 Independence .....57  
Rule 102 Integrity and Objectivity .....57  
Rule 103 Incompatible Occupations .....57

Competence and Technical Standards

Rule 201	General Standards .....	58
Rule 202	Compliance with Standards .....	58
Rule 203	Accounting Principles .....	58
Rule 204	Prospective Financial Statements or Data .....	58

Responsibilities to Clients

Rule 301	Confidential Client Information .....	59
Rule 302	Records .....	59

Other Responsibilities and Practices

Rule 401	Discreditable Acts .....	61
Rule 402	Acting Through Others .....	61
Rule 403	Advertising and Other Forms of Solicitation .....	61
Rule 404	Firm Names .....	61
Rule 405	Practice in Un-registered Entity .....	61
Rule 406	Notification by Licensees who are Associated with a Non-licensed Office or Business .....	61
Rule 407	Referral or recommendation between a Licensee or Firm in which a Licensee is an Owner or Employee and a Non-licensed Office or Business Performing Professional Services with which the Licensee or Firm is associated .....	62
Rule 408	Notification to Client of Acceptance of Commissions or Referral Fees .....	62
Rule 409	Communications .....	62
Rule 410	Change of Address or Business Affiliation .....	62
Rule 411	Failure to File Tax Returns .....	62
Rule 412	Criminal Convictions/Disciplinary Actions .....	62



## BOARD RULES

### **RULE 1      DEFINITIONS**

#### **1.1            ACT, BOARD, STATE, EXAMINATION, PRONOUNS**

Throughout these Rules, the "Public Accountancy Act of 1975, as amended," codified as A.C.A. § 17-12-101 et seq., may be referred to as "the Act" and the Board of Public Accountancy as "the Board;" "this State" refers to the State of Arkansas; "examination" means the examination required for a certificate as a Certified Public Accountant prescribed by A.C.A. § 17-12-301 et seq.; and masculine terms shall include the feminine and, when the context requires, shall include partnerships, limited liability companies and corporations.

#### **1.2            ATTEST**

Providing the following financial statement services: any audit or other engagement to be performed in accordance with the "Statement on Auditing Standards," any review of a financial statement to be performed in accordance with the "Statements on Standards for Accounting and Review Services," any examination of prospective financial information to be performed in accordance with the "Statements on Standards for Attestation Engagements," and any engagement to be performed in accordance with PCAOB Auditing Standards.

#### **1.3            CERTIFICATE**

A certificate as "certified public accountant" issued under A.C.A. § 17-12-301 or a corresponding certificate as "certified public accountant" issued after examination under the laws of any state.

#### **1.4            CLIENT**

The person or entity which retains a licensee for the performance of professional services.

#### **1.5            COMMISSION**

An allowance or consideration paid upon completion of the transaction for recommending or referring a product or service to be supplied by another person.

#### **1.6            COMPILATION**

Providing a service to be performed in accordance with "Statements on Standards for Accounting and Review Services" that is presenting in the form of financial statements information that is the representation of management and/or owners without undertaking to express any assurance on the statements.

#### **1.7            FINANCIAL STATEMENTS**

Financial statements are statements and footnotes related thereto that purport to show actual or anticipated financial position which relates to a point in time or changes in financial position which relate to a period of time, including statements which use a cash or other comprehensive basis of accounting. The

term includes balance sheets, statements of income, statements of changes in comprehensive income, statements of retained earnings, statements of cash flows and statements of changes in owners' equity, but does not include incidental financial data included in management advisory services reports to support recommendations to a client, nor does it include tax returns and supporting schedules.

**1.8 FIRM**

A partnership, corporation, limited liability company, sole proprietorship, or other entity required to be registered with the Board under the provisions of A.C.A. § 17-12-401 et seq.

**1.9 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES**

"Generally accepted accounting principles" shall be deemed and construed to mean accounting principles or standards generally accepted in the United States. For purposes of these rules and regulations, generally accepted accounting principles are considered to be defined by pronouncements issued by the Financial Accounting Standards Board and its predecessor entities and similar pronouncements issued by other entities having similar generally recognized authority.

**1.10 GENERALLY ACCEPTED AUDITING STANDARDS**

"Generally accepted auditing standards" shall be deemed and construed to mean the generally accepted auditing standards adopted by the Board. The Board shall take into consideration interpretations of Generally Accepted Auditing Standards as issued by the American Institute of Certified Public Accountants and other pronouncements having similar generally recognized authority.

**1.11 HOME OFFICE**

The location specified by the client as the address to which a service described in A.C.A. § 17-12-311(a)(4) is directed.

**1.12 LICENSEE**

The holder of a license, meaning a certificate issued under A.C.A. § 17-12-301 or registered under A.C.A. § 17-12-312 or A.C.A. § 17-12-401 et. seq. or, in each case, a certificate or permit issued or a registration under corresponding provisions of prior law.

**1.13 PEER REVIEW**

The process of reviewing the work product of a licensee by a qualified individual or firm, the purpose of which is to assure that professional services are performed consistent with applicable standards.

**1.14 PERMIT TO PRACTICE**

Permit to practice means a permit to practice public accountancy issued under prior provisions of the Act, or under corresponding provisions of the law of other states.

**1.15 PRACTICE OF, OR PRACTICING PUBLIC ACCOUNTING**

The performance of attest services as defined in this section or the performance of professional services while using the title or designation certified public accountant, public accountant, CPA, PA, accountant, or auditor.

**1.16 PRINCIPAL PLACE OF BUSINESS**

The primary location from which professional services are performed. A person or firm may only have one principal place of business at any one time. Individuals who perform professional services at multiple locations, such as individuals who perform attest services on assignment as needed in multiple jurisdictions, may designate as their principal place of business the location that most often serves as the individual's home base of operations.

**1.17 PROFESSIONAL SERVICES**

Services arising out of or related to specialized knowledge or skills performed by certified public accountants or public accountants, including issuing reports on financial statements, providing management or financial advisory services or consulting, preparing tax returns, or providing advice on tax matters, providing forensic accounting services, or providing internal auditing services.

**1.18 PUBLIC COMMUNICATION**

A public communication is a communication made in identical form to multiple persons or to the world at large, as by television, radio, motion picture, newspaper, pamphlet, mass mailing, letterhead, business card, electronic transmission or directory.

**1.19 RETURNING MILITARY VETERAN**

A former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.

**1.20 SUBSTANTIAL EQUIVALENCY**

A determination by the NASBA National Qualification Appraisal Service that:

- a. The education, examination and experience requirements of the state in which the individual holds a valid license are comparable to or exceed the education, examination and experience requirements contained in the Uniform Accountancy Act; or
- b. The individual CPA's education, examination and experience requirements are comparable to or exceed the education, examination and experience requirements contained in the Uniform Accountancy Act.

**1.21 UAA**

The Uniform Accountancy Act issued jointly by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA), as amended from time to time.

## **Rule 2 BOARD RULES AND MEETINGS**

### **2.1 BOARD OF PUBLIC ACCOUNTANCY**

Any interested person may obtain information, including copies of all forms and instructions used by the Board, or make submissions or requests by writing the Board at its principal office and official address which is appended hereto in Appendix One.

### **2.2 RULES AND REGULATION**

A.C.A §17-12-203 provides that the Board may prescribe rules and regulations for the conduct of its affairs and for the administration of the Act.

### **2.3 ANNUAL MEETING**

The annual meeting of the Board shall be held in June of each year at the office of the Board, or at such other place as the Board may have designated by previous resolution and, at such time, the president, secretary and treasurer shall be elected to serve until their successors are elected. The office of secretary and treasurer may be held by the same individual. The election of such officers shall be the first order of business at such meeting after hearing the reports of outgoing officers, and the newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they were elected.

### **2.4 OTHER MEETINGS**

In addition to the annual meeting and in addition to future meetings, the time and place of which may be fixed by resolution of the Board, any meeting may be called by the president of the Board or by joint call of two of its members.

### **2.5 RULES OF ORDER**

Meetings of the Board shall be conducted in accordance with Robert's Rules of Order insofar as compatible with the laws of the State governing the Board or its own resolutions as to its conduct.

### **2.6 OPEN MEETINGS**

All meetings of the Board shall be conducted in accordance with applicable state laws, including the Freedom of Information Act.

### **2.7 RULES OF CONDUCT**

The rules of conduct are set out in Appendix Two.

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## **RULE 3 EXAMINATIONS**

### **3.1 SEMESTER HOUR; ACCREDITED COLLEGES, UNIVERSITIES, SCHOOLS AND PROGRAMS; CREDIT FOR COURSES**

(a) As used in these Rules, a “semester hour” means the conventional college semester hour. Quarter hours may be converted to semester hours by multiplying them by two-thirds.

(b) As used in these Rules, “accreditation” refers to the process of quality control of the education process.

The applicant’s degree must have been granted by a four-year degree-granting college or university that is accredited by one or more recognized regional accrediting agencies (including their predecessor or successor agencies). The Board recognizes the following six (6) regional accrediting agencies.

Middle States Association of Colleges and Schools;  
New England Association of Schools and Colleges Commission on Institutions of Higher Education;  
The Higher Learning Commission;  
Northwest Commission on Colleges and Universities;  
Southern Association of Colleges and Schools Commission on Colleges; and the  
Western Association of Schools and Colleges Accrediting Commission for Senior Colleges and Universities.

Colleges and Universities accredited by these associations are listed in Accredited Institutions of Postsecondary Education published by the Council of Postsecondary Accreditation of the American Council on Education.

(c) A candidate is considered as graduating from an accredited educational institution if at the time the educational institution grants the applicant’s degree, it is accredited at the appropriate level as outlined in these Rules.

(d) If an educational institution was not accredited at the time an applicant’s degree was received but is so accredited at the time the application is filed with the Board, the institution will be deemed to be accredited for the purpose of subsection (c), provided;

- (1) the educational institution certifies that the applicant’s total educational program would qualify the applicant for graduation with a baccalaureate degree during the time the institution has been accredited; and
- (2) the educational institution furnishes the Board satisfactory proof, including college catalogue course numbers and descriptions, that the pre-accrediting courses used to qualify the applicant as an accounting major are substantially equivalent to post-accrediting courses, and
- (3) the applicant has met the educational requirements outlined in Section 3.2.

(e) If an applicant’s degree was received at an accredited educational institution pursuant to subsection (c) or (d), but the educational program which was used to qualify the applicant as an accounting major included courses taken at non-accredited institutions, either before or after graduation, such courses will be deemed to have been taken at the accredited institution from which applicant’s degree was received, provided the accredited institution either –

- (1) has accepted such courses by including them in its official transcript; or
- (2) has certified to the Board that it will accept such courses for credit toward graduation.

(f) A graduate of a four-year degree-granting college or university not accredited at the time applicant's degree was received or at the time the application was filed will be deemed to be a graduate of an accredited educational institution if –

(1) a credentials evaluation service that is a member of the National Association of Credential Evaluation Services or one approved by the Board certifies that the applicant's degree is equivalent to a degree from an accredited educational institution defined in subsection (b); or

(2) (A) an accredited educational institution as defined by subsection (b) accepts applicant's non-accredited baccalaureate degree for admission to a graduate business degree program;

(B) the applicant satisfactorily completes at least fifteen semester hours, or the equivalent, in post-baccalaureate education at the accredited institution, of which at least nine semester hours, or the equivalent, shall be in accounting; and  
(C) the accredited educational institution certifies that the applicant is in good standing for the continuation in the graduate program, or has maintained a grade point average in these courses that is necessary for graduation.

(g) The advanced subjects completed to qualify under subsection (f)(2) may not be used to satisfy the requirements of section (h).

(h) The accounting and business concentration or equivalent shall consist of the semester hours specified in Rule 3. 2 below.

### **3.2 EDUCATION REQUIREMENT**

(a) An applicant will be deemed to have met the education requirement if the applicant has earned a graduate or an undergraduate degree, either of which includes at least 30 hours in business as listed in Section 3.2(c) and at least 30 upper-level or 20 graduate hours in accounting (or a combination thereof) as listed in Section 3.2(b), from a college or university that meets the criteria for accreditation defined in Section 3.1(b). Applicants must meet the accounting education requirements defined in Section 3.2(b) and the business education requirements defined in Section 3.2(d).

(b) The accounting component of the applicant's educational program must include at least 30 semester credit hours (SCH) of undergraduate accounting courses above the principles level or 20 SCH of graduate-level accounting courses, or a combination thereof. The accounting component must include coverage of financial accounting, management accounting, governmental and not-for-profit accounting, federal taxation, auditing and attestation, and accounting information systems. The applicant must earn a grade of "C" or better in each course included in the accounting component.

(c) The business component of the applicant's educational program must include at least 30 SCH of undergraduate courses in business, other than accounting, or 20 SCH of graduate business courses other than accounting (or a combination thereof). The applicant must earn a grade of "C" or better in each course included in the business component.

(d) The Board recognizes the essential need to include coverage of ethics and written communication in the accounting component and, therefore, encourages institutions to integrate coverage of both topics appropriately in the accounting component.

(e) Content areas specified in the accounting component may be covered in stand alone courses at some institutions or may be integrated or embedded within related courses at other institutions. Institutions that use an integrated approach that covers multiple subjects will be responsible for providing the Board with documentation to establish the courses within which each content area is covered.

(f) Internship credit: The accounting or business component (but not both) may include a maximum of 3 SCH earned for an accounting internship. Internship credit may not be used to fulfill the subject matter requirements listed in 3.2(b). The business component may include a maximum of 3 SCH earned for a business internship, other than in accounting.

(g) Independent study: The accounting or business component (but not both) may include a maximum of 3 SCH earned for an independent study. When appropriately documented by the institution, these hours may be used to fulfill part of the subject matter requirements listed in 3.2(b).

### **3.3 APPLICATIONS FOR EXAMINATION**

(a) Applications to take the Certified Public Accountant Examination must be made on a form provided by the Board and received by the Board on or before a date specified by the Board in the application form. See Rule 3.8

(b) An application will not be considered filed until the applicable fees required by these Rules and all required supporting documents have been received, including proof of identity as determined by the Board, official transcripts, proof the educational requirement has been satisfied, and proof that the Candidate has received the applicable degree, or certification from the school on a form prescribed by the Board that the degree has, in fact, been earned, but will be conferred at a later date. In the case where the degree is to be conferred at a later date, the Applicant shall not be credited with any score(s) until the official transcript showing that the degree has been conferred is received by the Board. All transcripts and verification of receipt of degree must be sent from the appropriate school officials directly to the Board.

(c) The candidate must cause official transcripts documenting the degree conferred to be received by the Board office within 30 days after the degree is conferred.

(d) The Board or its designee will forward notification of eligibility for the computer-based examination to NASBA's National Candidate Database.

### **3.4 TIME AND PLACE OF EXAMINATION**

A Notice to Schedule (NTS) will be sent to eligible candidates via the address indicated on the application form. The candidate will have six months from the date the NTS is issued to schedule and take the approved examination sections. Utilizing the NTS, candidates are required to contact the test delivery provider identified by the Board to schedule the time and place for the examination at an approved test site. If a candidate requires rescheduling, the candidate must contact the test delivery provider. Scheduling reexaminations must be made in accordance with Rule 3.7 below.

### **3.5 EXAMINATION CONTENT**

The examination required by A.C.A. § 17-12-301 shall test the knowledge and skills required for performance as an entry-level certified public accountant. The examination shall include the subject areas of accounting and auditing and related knowledge and skills as the Board may require.

### **3.6 DETERMINING AND REPORTING EXAMINATION GRADES**

A Candidate shall be required to pass all Test Sections of the Certified Public Accountant Examination in order to qualify for a certificate. The Candidate must attain the uniform passing grade established through a psychometrically acceptable standard-setting procedure and approved by the Board. Upon receipt of grades reported by the examination provider, the Board will review and may adopt the examination grades and will report the adopted grades to the qualified Candidate (one who has met all requirements of Rules 3. 2 and 3. 3 above).

### **3.7 RETAKE AND GRANTING OF CREDIT REQUIREMENTS**

(a) A Candidate shall be required to pass all Test Sections of the Certified Public Accountant Examination in order to qualify for a certificate. 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 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-month period, which begins on the date that the first Test Section(s) passed is taken.

(2) Candidates cannot retake a failed Test Section(s) in the same examination window. An examination window refers to a three-month period in which Candidates have an opportunity to take the CPA 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 four Test Sections of the Uniform CPA Examination are not passed within the rolling eighteen-month period, credit for any Test Section(s) passed outside the eighteen-month period will expire and that Test Section(s) must be retaken.

(b) The Board may in particular cases extend the term of conditional credit validity notwithstanding the requirements of subsection (a) and ( upon a showing that the credit was lost by reason of circumstances beyond the Candidate's control.

(c) A Candidate shall be deemed to have passed the Uniform CPA Examination once the Candidate holds at the same time official 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 official notice of the passing grade.

### **3.8 CANDIDATE TESTING FEE**

(a) The Candidate shall, for each applicable Test Section pay to the Board or its designee fees charged by the AICPA, NASBA, and the Test Delivery Provider, as well as the application and section fees established by the State Board. The application and section fees are nonrefundable and nontransferable. The fees for AICPA, NASBA, and the Test Delivery Provider are collected by the Board and held for transfer to the entities. Those fees are nontransferable, but may be partially refunded if extreme hardship precludes the applicant from scheduling or taking the exam. Extreme hardship is defined as medical emergency of candidate or candidate's immediate family, or death in immediate family. Any other extreme hardship situation will be reviewed on a case-by-case basis by the Board. Documentation of such circumstances must be submitted along with written request as soon as possible, but no later than 30 days from the date the candidate was scheduled for the applicable section(s) or 30 days from the expiration of the NTS whichever occurs first. The fees to sit for the



examination are enumerated in Rule 12.

(b) A first-time applicant is defined as an applicant who has never sat for any section of the CPA examination as an Arkansas applicant, or has never received official scores as an Arkansas candidate.

(c) A re-exam applicant is defined as an applicant taking any section of the CPA examination after sitting as a first-time Arkansas applicant.

### **3.9 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 any 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.
- (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 or unless the individual has been expressly authorized by the Board to participate in a "secret shopper" program.

(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 state's 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 representative 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;
- (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/or
- (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 the Board of Accountancy of any other state to which the Candidate may apply for the examination information as to the Board's findings and actions taken.

### **3.10 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 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.

### **3.11 EDUCATION REQUIREMENT FOR LICENSURE**

Any candidate who successfully completes the CPA examination must also complete 150 SCH of education in order to be licensed. Successful candidates must complete this education requirement within 3 years of the date the last CPA exam section was passed. Candidates who are unable to complete this education requirement within 3 years due to extreme hardship (medical or other) may apply to the Board for an extension.

### **3.12 REQUIREMENTS FOR RELICENSURE**

Anyone applying for relicensure who meets the conditions established in ACA 17-1-107(b)(1) and can demonstrate that he or she passed the Certified Public Accountants (CPA) exam with scores sufficient for licensure at the time the individual's initial license was issued:

- A) Shall not be required to re-take the CPA exam in order to be re-licensed;
- B) Shall not be required to take additional college courses to meet current standards for licensure, as long as the education standards were met at the time of initial licensure.

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## **Rule 4 RECIPROCITY**

### **4.1 QUALIFICATIONS FOR ISSUANCE OF A RECIPROCAL CERTIFICATE**

(a) With regard to applicants that do not qualify for reciprocity under the substantial equivalency standard set out in § 17-12-311, the Board shall issue a certificate to a holder of a certificate, license, or permit issued by another state upon showing that:

- (1) The applicant passed the uniform CPA examination;
- (2) The applicant had four years of experience of the type described by Rule 16, after passing the examination upon which the applicant's certificate was based and within the ten years immediately preceding the application; and
- (3) If the applicant's certificate, license, or permit was issued more than four years prior to the application for issuance of an initial certificate under this Section, that the applicant has fulfilled the requirements of continuing professional education that would have been applicable under subsection (d) of this Section.

(b) As an alternative to the requirements of Rule 4.1(a), a certificate holder licensed by another state who establishes their principal place of business in this state shall request the issuance of a certificate from the Board prior to establishing such principal place of business. The Board shall issue a certificate to such person who obtains from the NASBA National Qualification Appraisal Service verification that such individual's CPA qualifications are substantially equivalent to the CPA licensure requirements of the AICPA/NASBA Uniform Accountancy Act.

### **4.2 RECIPROCAL CERTIFICATE FEE**

The fee for a reciprocal certificate is set forth in Rule 12.

### **4.3 APPLICATION FOR A RECIPROCAL CERTIFICATE**

An application for a reciprocal certificate is obtainable from the Board's office. See Rule 10.

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**RULE 5 FOREIGN ACCOUNTANTS**

**5.1 QUALIFICATIONS FOR ISSUANCE OF A RECIPROCAL CERTIFICATE TO A HOLDER OF A SUBSTANTIALLY EQUIVALENT FOREIGN DESIGNATION**

See A.C.A. § 17-12-308 (c) for the qualifications for issuance of a reciprocal certificate to the holder of a substantially equivalent foreign designation.

**5.2 BACKGROUND CHECK REQUIREMENT**

Such an applicant is also required to undergo a federal and state background check, as is required of non-foreign accountants for a certificate as a Certified Public Accountant.

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## Rule 6 PRACTICE UNDER SUBSTANTIAL EQUIVALENCY

### 6.1 INDIVIDUALS AND FIRMS PRACTICING UNDER SUBSTANTIAL EQUIVALENCY

#### (a) Individuals practicing under substantial equivalency

- (1) Pursuant to A.C.A. § 17-12-311, a CPA who holds a current valid license from a state other than Arkansas whose principal place of business is not in this state may perform certain professional services in this state without registering with the Board.
- (2) To qualify for practice under substantial equivalency, the NASBA National Qualification Appraisal Service must have determined that:
  - a. The education, examination and experience requirements of the state in which the individual holds a valid license are comparable to or exceed the education, examination and experience requirements contained in the UAA; or
  - b. The CPA holds a valid license issued by a state whose education, examination and experience requirements are not comparable to those contained in the UAA, but the individual CPA's education, examination and experience requirements are comparable to or exceed the education, examination and experience requirements contained in the UAA. If requested by the board, the individual and the firm for which the individual CPA is performing services in this state shall provide a copy of the NASBA National Qualification Appraisal Service verification letter.
- (3) An individual who qualifies for practice privileges under substantial equivalency may offer or render professional services in person, by mail, by telephone, or by electronic means without notifying the Board, registering with the Board, or paying a fee.
- (4) An individual who qualifies for practice privileges under substantial equivalency may perform the following services for a client with its home office in this state only through a firm that has registered under A.C.A. §17-12-401:
  - a. A financial statement audit or other engagement to be performed in accordance with the "*Statements of Auditing Standards*";
  - b. An examination of prospective financial information to be performed in accordance with "*Statements on Standards for Attestation Engagements*"; or
  - c. An engagement to be performed in accordance with PCAOB Standards.
- (5) An individual licensee who performs professional services under substantial equivalency and the firm which employs that individual licensee consent and agree, as a condition of the exercise of this privilege to:
  - a. The personal and subject matter jurisdiction and disciplinary authority of the Board,
  - b. Comply with the Arkansas Accountancy Act and Rules of the Board, and
  - c. Cease offering or rendering professional services in this state individually and on behalf of a firm if the license from the state of the

- individual's principal place of business is no longer valid, and
- d. The appointment of the board issuing the individual's license and the firm's license as the individual's agent upon whom process may be served in an action or proceeding of the Arkansas State Board of Public Accountancy against the licensee.
- (6) An individual who passed the Uniform CPA Examination and holds a valid license issued by any other state prior to January 1, 2012 may be exempt from this state's education requirements in A.C.A. §17-12-302 for purposes of determining substantial equivalency under Rule 6.
  - (7) An individual who held an Arkansas CPA certificate or license at one time whose Arkansas CPA certificate or license has been revoked or surrendered in connection with a disciplinary investigation or proceeding is prohibited from practicing public accounting or using the title "CPA" in this state whether or not such an individual may otherwise qualify for practice privileges under Rule 6.1.
  - (8) If a CPA does not qualify under the substantial equivalency standards in A.C.A. § 17-12-311, the Board may issue a reciprocal certificate or license to the holder of a certificate, license or other authority by another state provided that the CPA qualifies pursuant to A.C.A. § 17-12-308.
- (b) Firms practicing under substantial equivalency
- (1) A firm that does not have an office in this state may perform professional services other than those listed in Rule 6.1(a)(4), for a client having its home office in this state, without notifying the Board, registering with the Board, or paying a fee, provided that:
    - a. The firm meets the applicable requirements of A.C.A §17-12-401 and Rule 14.3(e);
    - b. The firm performs the services through an individual who is registered with the Board or through an individual who is practicing under the provisions of substantial equivalency defined in Rule 6.1 (a); and
    - c. The firm can lawfully perform the services in the state where the individual with practice privileges has his or her principal place of business.
  - (2) A firm may not perform certain services under substantial equivalency. The following services for a client with its home office in this state may only be performed through a firm that is registered in this state:
    - a. A financial statement audit or other engagement to be performed in accordance with the *Statements of Auditing Standards*,
    - b. An examination of prospective financial information to be performed in accordance with *Statements on Standards for Attestation Engagements*, and
    - c. An engagement to be performed in accordance with PCAOB Standards.
  - (3) A firm that is exercising the privilege to practice under substantial equivalency as defined above and the responsible individuals employed by the firm consent and agree to:
    - a. Personal and subject matter jurisdiction and disciplinary authority of the Board,
    - b. Comply with the Arkansas Accountancy Act and Rules of the Board,

- and
- c. Cease offering or rendering services in this state individually and on behalf of a firm if the license from the state of the individual's principal place of business is no longer valid, and
  - d. The appointment of the board issuing the individual's license and the firm's license as the individual's agent upon whom process may be served in an action or proceeding of the Arkansas State Board of Public Accountancy against the licensee.

**6.2 DISCLOSURE OF STATE OF LICENSURE BY INDIVIDUALS OR FIRMS WITH PRACTICE PRIVILEGES**

- (a) Individuals or firms practicing public accounting in Arkansas or practicing public accounting for a client with its home office in Arkansas while exercising a practice privilege shall not make any representation tending to falsely indicate that the individual or firm is licensed under A.C.A. §§\_17-12-301, 17-12-308 or 17-12-401. Such individuals or firms may truthfully identify themselves as licensed in any jurisdiction in which they hold a valid, active, unexpired license to practice as certified public accountants. For example, a practitioner could not use the term "Arkansas CPA" or otherwise state or infer licensure in Arkansas, but if true the individual or firm could use titles such as "CPA or firm licensed in Texas" or "Oklahoma CPA". Such individuals or firms could also use cards, stationery or similar materials with the title "CPA" as long as the materials reflect the individual's or firm's principal place of business outside of Arkansas. Such individuals could also truthfully state that they are CPAs practicing under a practice privilege.
- (b) Firms and individuals practicing public accounting in Arkansas shall provide, upon a client's or prospective client's request, accurate information on the state or states of licensure, principal place of business, contact information, and manner in which licensure status can be verified.

**6.3 INDIVIDUALS INELIGIBLE FOR PRACTICE PRIVILEGES**

- (a) Unless prior approval is obtained from the Board, the practice privileges described in Rule 6.1 shall not be applicable if:
  - (1) The individual has been convicted of a felony under the laws of any jurisdiction.
  - (2) The individual has been convicted of any crime under the laws of any jurisdiction if an element of the crime involves dishonesty or fraud, such as forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or similar offenses.
  - (3) The individual's license to practice public accounting has been suspended, revoked, or otherwise disciplined by a licensing authority in this or another state, territory, or country, for any cause other than failure to pay appropriate fees. "Disciplined" shall include the voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding in Arkansas or other jurisdiction.
  - (4) The individual's right to practice public accounting before any state or federal agency or before the PCAOB has been suspended or revoked.
  - (5) The individual has applied for licensure as a certified public accountant in Arkansas or other jurisdiction and that application has been denied.
  - (6) The individual's authority to exercise practice privileges has been revoked in Arkansas or another jurisdiction.

- (b) The Board will determine upon request whether the criminal or disciplinary history or other regulatory action provides grounds for denial of practice privileges under substantial equivalency.
- (c) Individuals precluded from exercising practice privileges under this rule may apply for licensure in Arkansas if otherwise qualified. The Board will determine when an application is submitted whether the criminal or disciplinary history or other regulatory action provides grounds for denial of licensure.



## **Rule 7 OWNERSHIP OF FIRMS**

### **7.1 DEFINITIONS**

(a) For purposes of these rules, "actively participate" means the providing of personal services in the business entity licensed in Arkansas to practice public accounting, in the nature of management, performance of services for clients, or similar activities. Individuals and entities whose primary source of income from the business entity is provided as a result of passive investment will not be considered as actively participating in the business entity.

(b) For purposes of these rules, an "owner" is defined as a person who actively participates in a business entity licensed in Arkansas to practice public accounting, and who (1) has an interest in profits and losses of such business entity, or (2) owns all, or any portion, of the equity capital of such business entity, or (3) has a vote with respect to matters of such business entity.

(c) For purposes of these rules, "profits and losses" are defined as the net taxable income or loss, determined prior to payment of any form of compensation to owners, of a business entity licensed in Arkansas to practice public accounting.

(d) For purposes of these rules, "equity capital" is defined as (a) capital stock, capital accounts, capital contributions, or undistributed earnings of a business entity licensed in Arkansas to practice public accounting; and (b) loans and advances to a business entity licensed in Arkansas to practice public accounting, made or held by its owners. "Equity capital" does not include an interest in bonuses, profit sharing plans or defined benefit plans or loans to a business entity licensed in Arkansas to practice public accounting from banks, financial institutions or other third parties that do not actively participate in such business entity.

(e) For purposes of these rules, a "business entity" is defined as a proprietorship, partnership, corporation, limited liability company or any other permissible form of practice which is licensed in Arkansas to practice public accounting.

(f)(1) "Good standing" as used in A.C.A. §§ 17-12-401, 17-12-402, 17-12- 603 (d), and Rule 7.4 (a) is defined as a CPA or PA who holds an active license for the current year issued by the applicable Board.  
(2) "Good standing" as used in § 17-12-504(a) and (b) means a CPA, public accountant, or a firm whose license, registration, or inactive license has not lapsed pursuant to Ark. Code Ann. § 17-12-504(f)(2).

### **7.2 CORPORATIONS**

Any corporation granted a license under the Act shall be subject to the Rules of Professional Conduct. Any shareholder who ceases to be eligible to be a shareholder shall be required to dispose of all of his or her shares within a reasonable period to a person qualified to be a shareholder or to the corporation.

### **7.3 PARTNERSHIPS, CORPORATIONS, LIMITED LIABILITY COMPANIES, SOLE PROPRIETORSHIPS AND OTHER PERMISSIBLE FORMS OF PRACTICE; GENERAL REQUIREMENTS; OWNERSHIP**

(a) A person who is not a certified public accountant or public accountant in this or some other state or jurisdiction but who actively participates within this state in the business conducted in Arkansas by a business entity licensed in Arkansas to practice public

accounting may be an owner, director, officer, limited liability company member, or manager in any such business entity, under the following conditions:

- (1) Such person shall not hold himself or herself out as a certified public accountant or public accountant.
- (2) The name of such person shall be provided to the Board by a business entity in connection with the granting or renewal of a license in Arkansas to such business entity.
- (3) Such person shall not have ultimate responsibility for the performance of audits, reviews or compilations of financial statements or other forms of attestation related to financial information.

(b) **Limitations; Equity Ownership.** Persons who are not certified public accountants or public accountants in this or any other state or jurisdiction but who are owners of a business entity licensed in Arkansas to practice public accounting, shall neither (a) hold, in the aggregate, more than a minority interest of such business entity's equity capital or voting rights, nor (b) receive, in the aggregate, more than a minority interest of such business entity's profits or losses.

(c) **Sole Proprietorships.** A certified public accountant or public accountant operating as a sole proprietorship and engaged in Arkansas in the practice of public accounting is considered a firm.

(d) **Other forms of practice.** These rules shall be applied to individuals and to any business entity licensed in Arkansas to practice public accounting in a manner consistent with carrying out the intent of these rules.

(e) **Eligibility; Disqualification; Owners.** With respect to owners who are not licensed in this state or any other state or jurisdiction as certified public accountants or public accountants, if at any time the Board determines that any such owner no longer is eligible to be an owner by virtue of not being in compliance with the criteria set forth in the Public Accountancy Act and rules, such owner and the business entity in which ownership exists shall be notified that if a Board hearing is not requested within thirty (30) days of the date of mailing notification of such determination, an order will then be entered that such owner must divest himself or herself of ownership in the business entity within sixty (60) days of entry of the order.

(f) **Corporations; Other Requirements.** The principal executive officer of a corporation licensed in Arkansas to practice public accounting shall be a shareholder and a director who is a licensed certified public accountant or public accountant. Directors and officers who are not licensees shall not exercise any authority whatsoever over professional matters relating to the practice of public accountancy.

## **7.4 APPLICATION PROCEDURES; FORMS**

(a) Each applicant for registration as any type of licensed business entity shall register with the Board of Public Accountancy prior to performing public accounting work in the state of Arkansas. Except as described below, such registration form must include an affidavit signed by a general partner, shareholder, or member of such business entity who is a certified public accountant or public accountant of Arkansas in good standing, attesting to the accuracy of the information in the application materials. In the case of an entity practicing under substantially equivalency, such registration form must include an affidavit signed by a general partner, shareholder, or member of such business entity who holds a current valid license in good standing as a certified public accountant in Arkansas or some other state or jurisdiction of the United States attesting to the accuracy of the information in the application materials.

(b) After the Board has accepted the initial registration application and has issued a license to practice, the registered business entity may practice in the state of Arkansas under the title which appears on the license to practice as the name of the business entity.

(c) Arkansas registered business entities shall renew their registration on an annual basis, on forms provided by the Board. Failure or refusal to provide complete and accurate responses to all questions on the registration renewal forms by the deadline noted on such forms may be grounds for refusal to renew such registration.

(d) Arkansas registered business entities shall include on their initial registration with the Board, and subsequent renewal of such registration, a complete listing of the names and the state of residency of all owners and the percentage of ownership and voting rights of each owner.

(e) In the case of firms with multiple offices, the licensee shall identify on its original and each renewal application each office to be registered, as prescribed on a form approved by the Board.

## **7.5 NON-RESIDENT PUBLIC ACCOUNTANTS**

A non-resident Public Accountant and an Arkansas Public Accountant or Certified Public Accountant may form a partnership or corporation for the practice of public accountancy, which shall be registered with the Board, provided that the non-resident Public Accountant holds a valid and unrevoked license in a jurisdiction having a regulatory law and, further provided that the non-resident Public Accountant shall not actively practice public accounting in Arkansas as an individual or as a partner or shareholder of the firm.

The Board will not register such a partnership or corporation if the non-resident Public Accountant lives in a state which does not have a regulatory accountancy law.

## **7.6 PRACTICE PRIVILEGES FOR OUT OF STATE PUBLIC ACCOUNTING FIRMS**

Non resident firms: Corporations, Limited Liability Companies, Partnerships, Sole Proprietorships, and other permissible forms of practice that are practicing in Arkansas under practice privileges are subject to the following:

(a) Ownership: A person who does not hold a current valid license as a certified public accountant in Arkansas or some other state or jurisdiction of the United States, but who actively participates within this state with a firm exercising practice privileges in Arkansas is subject to the following conditions.

- (1) Such person shall not hold himself or herself out as a certified public accountant or public accountant.
- (2) Such person shall not have ultimate responsibility for the performance of audits, reviews, or compilations of financial statements, PCAOB engagements or any other form of attestation with regard to financial information.

(b) Equity ownership limitations: Persons who are not certified public accountants or registered public accountants shall not (a) hold, in the aggregate, more than a minority interest of such firm's equity ownership or voting rights, or (b) receive, in the aggregate, more than a minority interest of said entity's profits or losses.

(c) Corporations, Limited Liability Companies, Partnerships, Sole Proprietorships, other requirements: The principal executive officer, managing member, or managing partner shall be a shareholder, member, or partner who is a licensed certified public accountant

or public accountant, who holds a current, valid license in this or another state or jurisdiction. Directors, members, partners, and officers who are not licensees shall not exercise any authority whatsoever over professional matters relating to the practice of public accounting.

#### 7.7 NOTIFICATION OF FIRM CHANGES

Firms established pursuant to A.C.A § 17-12-401 and 17-12-402 shall file with the board a written notification of any of the following events concerning the practice of public accountancy within this State within thirty (30) days after its occurrence.

- (a) Formation of a new firm;
- (b) Addition of a partner, member or shareholder;
- (c) Retirement, withdrawal or death of a partner, member, manager, or shareholder;
- (d) Any change in the name of the firm;
- (e) Dissolution of the firm;
- (f) Change in the management of any office location registered in this State;
- (g) Establishment of a new office location providing accounting services in this state or the closing or change of address of an office location registered in this State; and
- (h) The occurrence of any event or events which would cause such firm not to be in conformity with the provisions of the Act or these Rules.

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## **Rule 8        PROFESSIONAL STANDARDS**

### **8.1            COMPLIANCE WITH PROFESSIONAL STANDARDS**

Licensees shall comply with professional standards in the performance of professional services.

### **8.2            “PROFESSIONAL STANDARDS” DEFINITION**

“Professional standards” means the following, as in effect at the time the professional services were provided:

- (1) Statements on Auditing Standards (SAS) and related Auditing Interpretations issued by the AICPA;
- (2) Statements on Standards for Accounting and Review Services (SSARS) and related Accounting and Review Services Interpretations issued by the AICPA;
- (3) Statements on Standards on Consulting Services (SSCS) and related Consulting services Interpretations issued by the AICPA;
- (4) Statements on Standards for Attestation Engagements (SSAE) and related Attestation Engagements Interpretations issued by the AICPA;
- (5) Statements on standards for Accounting Services on Prospective Financial Information, Financial forecasts and Projections and Reporting on Pro Forma financial Information and related Prospective Financial Information, Forecasts, Projections and Pro Forma Interpretations issued by the AICPA;
- (6) Statements on Responsibilities in Tax Practice and related Tax Practice Interpretations issued by the AICPA;
- (7) Statements for Performing and Reporting on Quality Reviews and Interpretations of Standards for Performing and Reporting on Quality Reviews issued by the AICPA;
- (8) Standards for Audits on Governmental Organizations Programs, Activities and Functions issued by the Comptroller General of the United States;
- (9) Generally Accepted Accounting Principles and Interpretations of Generally Accepted Accounting Principles issued by the Financial Accounting Standards Board (FASB);
- (10) Generally Accepted Accounting Principles and Interpretations of Generally Accepted Accounting Principles issued by the Governmental Accounting Standards Board (GASB);
- (11) Similar pronouncements by the AICPA, FASB, GASB, Securities and Exchange Commission, Public Company Accounting Oversight Board (PCAOB) and other organizations having generally recognized authority over licensees of the Board.

### **8.3            RECORDS RETENTION**

(a) Each licensee shall retain attest working papers for a minimum of five years from the report date and in a readily accessible form. Failure to comply with the more restrictive record retention provisions contained in the rules and regulations of other Federal Regulatory bodies such as the Internal Revenue Service, Securities and Exchange Commission, and the Public Company Accounting Oversight Board will constitute a violation of this rule.

(b) In the event that a Board investigation or disciplinary action is pending on the

date identified in paragraph (a) of this rule or the licensee is notified by the Board to retain attest work papers for a longer time, the licensee shall retain the subject work papers until receipt of written notice from the Board that the investigation or disciplinary action has concluded or that the subject work papers need not be retained.

(c) The provisions of this rule are not applicable to engagements that are subject to the jurisdiction of the PCAOB or the Comptroller General of the United States which are specifically regulated as to the time for the licensee's retention of audit work papers.

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**RULE 9      COMMUNICATION, CHANGE OF ADDRESS OR BUSINESS AFFILIATION**

**9.1            NOTICE OF NEW RESIDENCE OR BUSINESS ADDRESS, OR ADDRESS OF ADDITIONAL OFFICE; NOTICE OF CLOSING OF OFFICE; RETURN OF CERTIFICATE OF REGISTRATION**

Notice shall be given by the licensee to the Board within thirty (30) days of any new residence or business address or the address of any additional office opened for the practice of public accounting in this State. Address changes to be communicated to the Board include mailing and electronic mail addresses. Notice must be similarly given by the licensee of the closing of any such offices. No form is provided for such notices, but they must be in writing and whether in letter form or otherwise, they must be clearly headed with "Notice of New Office", "Closing of Office", or similar wording, and, in the case of a new office, the name and the certificate or registration number of the resident manager is to be furnished. All offices of the practice of public accounting, on closing, must return any certificate of registration issued by the Board.

**9.2            NOTICE OF CHANGE OF EMPLOYMENT OR BUSINESS AFFILIATION AND OF EMPLOYER OR BUSINESS AFFILIATE ADDRESS**

The Board shall be notified by the licensee within thirty (30) days of any change employment or business affiliation, together with the address (including e-mail address) of the new employer or business affiliate.

**9.3            SUPERVISED PERMIT OF FIRM OPERATIONS UPON DEATH, INCAPACITY, OR BANKRUPTCY**

Upon the death or incapacity of a licensee or the closing of an accounting firm for any reason, including bankruptcy, the Board may in its discretion, based upon the merits and circumstances of each case, permit the accounting firm to continue operating for a period of time not to exceed one hundred eighty (180) days under the supervision of a person approved by the Board and subject to conditions prescribed by the Board.

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## **Rule 10 REGISTRATION**

### **10.1 INITIAL APPLICATION, RECIPROCAL, OR REINSTATEMENT**

Application for an initial license, reinstatement, or renewal shall be made on a form provided by the Board, and in the case of application for renewal, shall be filed by January 1 of each year.

### **10.2 CRIMINAL BACKGROUND CHECKS**

(a) Each applicant for an initial license, including a reciprocal license, or for a new license under Ark. Code Ann. § 17-12-504(h), shall apply, using forms furnished by and pursuant to instructions provided by the Board, for state and national criminal background checks to be conducted by the Identification Bureau of the Department of Arkansas State Police and Federal Bureau of Investigation; the Board may in its discretion on reasonable cause require an applicant seeking the reinstatement of a license under Ark. Code Ann. § 17-12-504(g) to apply for the criminal background checks as provided herein.

(b) The criminal background checks shall have been completed no earlier than six (6) months prior to the date of receipt of the application, unless the delay is beyond the control of the applicant.

(c) An applicant who seeks a waiver of a conviction under paragraph (d) below must cause the following certified documentation to be transmitted directly to the Board by the court or other entity or individual that is providing documentation about the applicant:

(1) Copies of court documents pertinent to conviction, i.e., information, indictment, or other charging documents, and judgments, orders, final rulings, or other documents specifying conviction and sanctions, and penalties; and

(2) Documentation from the appropriate governmental official regarding the applicant's status and compliance with regard to terms of probation, parole, restitution, penalty, or any other sanctions.

(d) (1) A person convicted of a felony or crime involving moral turpitude or dishonesty in any state or federal court may not receive or hold a license as a certified public accountant or public accountant.

(2) Provided; however, upon written request submitted with the application or after receipt of the criminal background check reports, an applicant who has a criminal conviction may seek to have the conviction waived and application approved, subject to appropriate terms and conditions.

(3) The request for waiver shall not be considered until the application, fees, applicable documentation, both federal and state criminal background check reports, and written request for waiver stating the applicant's reasons why the conviction should be waived are received by the Board.

(4) The Board, after service of notice upon the applicant, shall conduct a hearing on a request for waiver of a conviction; the hearing shall be conducted pursuant to the relevant provisions of Rule 11.

### **10.3 LICENSE RENEWAL**

The Board will renew the license to the applicant who has complied with the registration in 10.1 provided:

(1) the necessary information was furnished on the annual registration form;



- (2) the required fee for said registration was paid, and
- (3) there is no existing suspension of certificate, license or right to apply.

**10.4** REPEALED

**10.5** FIRM REGISTRATION

- (a) A firm engaged in the practice of public accounting that has an office in this state must register with the Board. Application for an initial firm registration and subsequent renewal must be made on a form provided by the Board.
  - (1) As defined in Rule 7, a firm includes a corporation, partnership, limited liability company, sole proprietorship, and other permissible forms of practice.
- (b) A firm engaged in the practice of public accounting that does not have an office in this state must register with the Board in order to provide the services listed below for any client whose home office is in this state. Applicants for an initial firm registration and subsequent renewals must be made on a form provided by the Board. Services requiring firm registration include:
  - (1) A financial statement audit or other engagement to be performed in accordance with the *Statements on Auditing Standards*,
  - (2) An examination of prospective financial information to be performed in accordance with *Statements on Standards for Attestation Engagements*, and
  - (3) An engagement to be performed in accordance with PCAOB Standards.
- (c) In the case of firms with multiple offices, the licensee shall identify on its original and each renewal application each office to be registered, as prescribed on a form approved by the Board.

**10.6** TEMPORARY LICENSURE

Notwithstanding the provisions of rules 10.1 through 10.5 above, the Board may issue temporary licenses to certain persons under the conditions set forth in Rule 18.1.

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## **Rule 11 HEARINGS BEFORE BOARD-NOTICE-PROCEDURE-REVIEW**

### **11.1 INVESTIGATIONS**

(a)(1) All investigations of possible violations of the Act, Code of Professional Conduct, or the Rules of the Board shall be investigated by the Board investigator under the supervision of the Board's Compliance Committee or CPE Compliance Committee.

(2) The Compliance Committee shall be comprised of one member of the Board, appointed by the President, and the Board's Executive Director.

(3) The CPE Compliance Committee shall be comprised of one member of the Board, appointed by the President, and the Board's Executive Director.

(b) Some possible minor violations may be expected to be of such nature that they can be disposed of informally by correspondence between the designee of the Board acting under the Board's instructions and the person or persons involved.

(c) The Board may conduct any investigation by a staff person and/or may designate investigating officer(s) to conduct investigations who shall be competent by reason of training or experience.

(d) No person or entity being investigated has a right to be present or to be heard during the investigation, but before any finding is recommended, such person or entity being investigated shall be advised of the nature of the conduct which is being investigated and shall be given an opportunity to make a statement personally or by counsel, verbally or in writing, sworn or unsworn, explaining, refuting or admitting the alleged misconduct, which shall be considered by the Compliance Committee in making any finding and recommendation to the Board as to the disposition of the investigation.

(e) Upon completion of an investigation, the chair of the Compliance Committee shall present a summary of the result of the investigation and recommendation as to whether the Board should make a finding of probable cause to order a hearing or other action on alleged violations of the Act, Code of Professional Conduct, or these Rules.

### **11.2 COMPLIANCE COMMITTEE RECOMMENDATION**

(a) The Board shall consider the recommendation by the Compliance Committee and may find:

- (1) probable cause;
- (2) no probable cause; or
- (3) instruct the investigating officer(s) to further investigate the matter.

(b) A finding of no probable cause by the Board shall be final, and after such finding no further proceedings shall be had in the matter by the Board unless new or additional evidence not available or made known to the Board at the time of the finding is thereafter brought to the attention of the Board. The Board shall promptly notify the person or entity being investigated and any complaining party of the Board's finding of no probable cause.

(c) If the Board finds probable cause it may direct:

- (1) that disciplinary proceedings against a licensee be initiated under these rules by the filing of a hearing notice, setting forth the particular act or acts of conduct for which the person may be disciplined;
- (2) that an action be instituted pursuant to A.C.A § 17-12-104 or § 17-12-

- 105; or
- (3) that other appropriate action be taken.

(d) When a hearing notice is filed, it shall be given a docket number, and any motions or other papers thereafter filed in the case shall refer to such docket number.

(1) At the time the hearing notice is filed, a copy thereof shall be mailed, under the direction of the Board, by registered mail or certified mail, return receipt requested, to the respondent at the respondent's address as shown upon the records of the Board, notifying the respondent that a hearing thereon will be held at a time and place to be specified, not less than thirty days after the mailing of such notice. The notice of hearing shall state the legal authority and jurisdiction under which the hearing is to be held.

(2) All pleadings, motions and orders filed in the case, except applications for witness subpoenas, shall be served on each party. Service shall be made by delivery of a copy of the document to be served to the party or the party's attorney or by mailing or emailing it to the party at the party's last known address or email address. Delivery of a copy within this rule shall mean: handing it to the attorney or to the party, or leaving it at the attorney or the party's office with the attorney or the party's secretary or other person in charge of the office, or, if there is no one in charge, leaving it in a conspicuous place therein.

If the office is closed or the attorney or party to be served has no office, leaving it at the attorney or party's usual place of abode with some person of the attorney or party's family above fifteen (15) years of age and informing such person of the contents thereof. Service by mail shall be deemed complete upon mailing. When an attorney makes the service, a certificate of service conforming to that required by the Arkansas Rules of Civil Procedure shall be taken as prima facie proof of such service in compliance with these rules.

(e) Upon the failure of a respondent to appear at a scheduled hearing, the Board may proceed to hear evidence against the respondent and may enter such order as shall be justified by the evidence, provided, however, that within thirty days from the date of any order, upon a showing of good cause for failure to respond, the Board may reopen said proceedings.

(f) The respondent has a right to information pursuant to A.C.A. § 25-15-208(a)(3).

(g) Hearings upon motions may be deferred until the final hearing, and rulings thereon may be reserved until the conclusion of the final hearing.

### **11.3 COMPUTATION OF TIME**

(a) In computing any period of time prescribed or allowed by these rules, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is neither Saturday, Sunday nor legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(b) When a party has the right or is required to do some act or take some proceeding within a prescribed period after the service of a notice or other paper

upon him and the notice or paper is served upon him by mail, three (3) days shall be added to the prescribed period.

#### **11.4 SUBPOENAS**

(a) Subpoenas for the attendance of the witnesses at hearings and for the production of documents shall be issued by the Board upon its own initiative or upon the written application of any party. The application shall state the name and address of the witness for whom the subpoena is to be issued, the party on whose behalf the witness is expected to testify, the time and place for the witness to appear, and the designated books, papers, documents, or tangible things, if any, to be produced.

(b) Subpoenas shall be served as required by Rule 45 of the Arkansas Rules of Civil Procedure, and the party at whose instance the subpoena is issued shall be responsible for obtaining service of the subpoena.

(c) Witness fees, expenses, and mileage, if requested by the witness, shall be paid by the party at whose instance the witness is summoned and shall be the same as prescribed by Rule 45 of the Arkansas Rules of Civil Procedure.

#### **11.5 HEARINGS BEFORE THE BOARD**

(a) If a hearing is to be conducted by the Board, its presiding officer or any designated hearing officer shall have the authority to:

- (1) Administer oaths and affirmations;
- (2) Rule upon offers of proof and receive relevant evidence;
- (3) Regulate the course of the hearing;
- (4) Hold conferences for the settlement or simplification of issues by consent of the parties; and
- (5) Dispose of procedural requests or similar matters.

However, the Board shall determine any issue that would dispose of the matter without a determination on the substance of the matters at issue.

(b) The Board, at the conclusion of the final hearing, or within a reasonable time thereafter, shall make findings of fact and conclusions of law as to each item of misconduct with which the respondent is charged and shall enter an order stating the effective date and providing for the appropriate disciplinary action, if any, and recovery of the costs of the proceedings and investigations pursuant to A.C.A. § 17-12-602 when the Board deems such recovery appropriate.

(c) The Board shall promptly notify the respondent and any complaining party of its findings and order.

#### **11.6 HEARINGS BEFORE A HEARING EXAMINER OR MEMBER OF THE BOARD**

(a) In the alternative, the Board may appoint a hearing examiner or member of the Board, who may conduct hearings in the absence of the Board. Such member or hearing examiner shall have the authority to:

- (1) Administer oaths and affirmations;
- (2) Rule upon offers of proof and receive relevant evidence;
- (3) Regulate the course of the hearing;
- (4) Hold conferences for the settlement or simplification of issues by consent of the parties;
- (5) Dispose of procedural requests or similar matters.

(b) In the event that the respondent challenges the sufficiency of the proffered charges or the jurisdiction of the Board, any recommended ruling in favor of the respondent shall be referred to the Board for decision. Any recommended finding against the respondent shall be included in the Board member or hearing examiner's report.

(c) Within thirty (30) days after the conclusion of the final hearing before the hearing examiner or member of the Board, or within such extended period of time as may be allowed by the Board for good cause shown, the hearing examiner or member of the Board shall make a report to the Board. The report shall include:

- (1) Recommended findings of fact and conclusions of law as to each item of misconduct with which the respondent is charged;
- (2) Recommendations as to whether or not the respondent should be found guilty of misconduct justifying disciplinary measures;
- (3) Recommendations as to the disciplinary measures to be applied, if any; and
- (4) A recommended form of order.

(d) A copy of the hearing examiner's or member of the Board's report shall be served upon the respondent.

#### **11.7 REVIEW OF HEARING EXAMINER'S OR MEMBER OF THE BOARD'S REPORT**

(a) Within ten (10) days after the hearing examiner or member of the Board files his or her report with the Board, or within such extended time as may be allowed by the Board, the record of the proceedings, including the transcript of all the testimony and exhibits, shall be filed with the Board.

(b) Within thirty (30) days after the hearing examiner or member of the Board files his or her report, or within such extended time as may be allowed by the Board for good cause shown, the respondent may file with the Board exceptions to the hearing examiner's or member of the Board's report and may file a brief in support of such exceptions. If the respondent files a brief, the Executive Director may, within twenty (20) days after the respondent's brief is filed with the Board, or within such extended time as may be allowed by the Board for good cause shown, file a brief in response. The parties shall also serve a copy of any such filings upon the opposing party or that party's counsel.

(c) The Board shall notify the respondent of the time and place of its meeting, at least ten (10) days in advance thereof, at which the Board will review the hearing examiner's or member of the Board's report. The respondent or the respondent's counsel may attend and present oral argument in support of any exceptions filed under Rule 11.7(b). If the respondent or the respondent's counsel presents such oral argument, the Executive Director may, through counsel, present oral argument in response. Each side will be allowed a stated amount of time, designated by the Board for argument.

(d) The Board, after review of the record and the hearing examiner's report, and considering the briefs and oral argument, if any, shall, within a reasonable time, make findings of fact as to each item of misconduct with which the respondent is charged, make conclusions of law, and enter an order stating the effective date and the disciplinary action pursuant to A.C.A. §17-12-602 or otherwise exonerating the respondent.

#### **11.8 DISPOSITION OF PROCEDURAL REQUESTS**

In the event the hearing is to be conducted pursuant to Rule 11.6, or if no decision has been made by the Board to appoint a hearing examiner or member of the

Board to hear the a disciplinary matter, the Board may appoint one of its members or a designated hearing officer to rule upon procedural requests or similar matters. Such rulings shall be reviewed by the Board at its hearing on the matter or at the time it reviews the report of the hearing examiner or member of the Board.

**11.9 EVIDENCE**

The admission of evidence shall be governed by A.C.A. § 25-15-213(4).

**11.10 RECORD OF PROCEEDINGS**

(a) An accurate record of the testimony, evidence, and all proceedings made before a hearing examiner, a member of the Board, or before the Board shall be reported, transcribed, indexed and bound by a court reporter supplied by the Board. Any party may contract with the court reporter for a transcript of the proceedings.

(b) In the event that judicial review is sought of any Board action taken pursuant to these rules, the Board shall prepare or have prepared a certified transcript of record pursuant to A.C.A. § 25-15-212 and submit the same to the reviewing court.

(c) The party or parties seeking judicial review of an order rendered by the Board may apply to the Board for a stay of that order. The stay may be granted upon such conditions as shall be reasonable, and any order granting a stay shall specify the conditions upon which the stay is granted.

**11.11 PUBLICATION OF DISCIPLINARY SANCTIONS**

The Board may cause to be published in the Board's and NASBA's official publications (printed and electronic), and may publish in newspapers of general circulation in the state, the name of any certificate or registration holder who is the subject of any disciplinary action. Such publication shall not occur until a final Board order has been issued. The publication may contain a narrative factual summary of the actions and violations which were the basis for the disciplinary action.

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**RULE 12 FEES**

The fees for various services of the Board are as follows (must be paid in U. S. dollars):

**CPA EXAMINATION:**

\* Application Fees – First-Time and Section Fees (non-refundable and non-transferable):

First-time application fee .....	\$50
Applying for one section .....	\$75
Applying for two sections.....	\$90
Applying for three sections .....	\$105
Applying for four sections .....	\$120

\* Other Costs:

Fees for the NASBA, AICPA, and Test Delivery Provider are also collected by the Board and held for the candidate for transfer to these entities. These entities set fees separate from the Board. The Board will display such fees on the examination application.

**APPLICATION FEES (non refundable):**

CPA/PA License.....	\$50
Reciprocal License.....	\$50
Registration as a Public Accountant .....	\$50
Firm Registration of Partnership, Limited Liability Company or Corporation Composed of CPAs.....	\$110
Firm Registration of Partnership, Limited Liability Company or Corporation Composed of PAs .....	\$110
Firm Registration of Sole Proprietor, Partnership, Limited Liability Company or Corporation Composed of CPAs required to register under Substantial Equivalency .....	\$110
Reinstatement .....	\$150
Duplicate or replacement certificate.....	\$ 40
Transfer of Credits From Another Jurisdiction:	
Transfer Fee for Each Part .....	\$10

**ANNUAL REGISTRATION FEES**

License to Practice.....	\$110
Inactive License Status.....	\$55
Firm Registration: Partnership, Corporations and Limited Liability Company.....	\$110
Firm Registration of Sole Proprietor, Partnership, Limited Liability Company or Corporation Composed of CPAs required to register under Substantial Equivalency .....	\$110
Registration of each firm office in excess of one office.....	\$ 25
Late Fee - License to Practice/Firms.....per month	\$ 25
Late Fee - Inactive License Status.....per month	\$10

QUALITY REVIEW

Fee for First Report.....	\$100
Fee for each additional type of report submitted.....	\$50

Fees are due at the time reports are submitted for review in response to QR Survey.

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## **RULE 13 CONTINUING EDUCATION**

Pursuant to the provisions of the Act, the Board prescribes the following regulations amending requirements of continuing education to be met from time to time by licensees in order to maintain the highest standard of proficiency in the profession of public accountancy.

### **13.1 DEFINITIONS THAT ARE APPLICABLE TO RULE 13:**

(a) Continuing Professional education (CPE): An integral part of lifelong learning required to provide competent professional accounting service to the public. The set of activities that enables accounting professionals to maintain and increase their professional competence.

(b) Group Program: An educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants either in a classroom setting or using the Internet or video conferencing technology (non-interactive Internet courses will not qualify in this area). Interactive webinars are considered group programs. The key component in interactive CPE courses is that the content is delivered in a manner so that the participants can interact with the remote instructor.

(c) Independent Study: An educational process designed to permit a participant to learn a given subject under a learning contract with a CPE program sponsor (all independent study must be approved in advance by the Arkansas State Board of Public Accountancy).

(d) Self-study Program: An educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs use a word count formula or a pilot test (a sampling of at least three individuals) to measure the average completion time from which the recommended CPE credit is determined.

(e) Authorship: An education process designed to permit a participant to increase professional competence through research and writing articles, books or CPE programs. For the writer to receive CPE credit, the article, book, or CPE program must be in the subject areas specified in Rule 13.2(a)(1) and formally accepted in writing for publication.

### **13.2 BASIC REQUIREMENTS**

(a) An applicant for renewal of a license must have completed acceptable continuing education, except as otherwise provided in Section 13.2(b), in the amount of 120 hours within 36 months or 40 hours within 12 months immediately preceding January 1 of the year for which the license is renewed, and further provided that:

(1) Beginning January 1, 2014, all license holders shall complete at least 50% of the required hours in the subject areas of accounting, accounting ethics, attest, or taxation.

(2) License holders engaged in any attest or compilation function shall complete at least 20% of the required hours in the subject areas of attest and accounting theory/practice.

(3) License holders must complete at least 4 hours of CPE in the area of accounting professional conduct and ethics during the 36-months immediately

preceding the expiration date of their current license. Licensees who received their initial license during the current calendar year are exempt from the ethics requirement until their first full calendar year of licensure. Licensees must also complete one hour of CPE on Arkansas State Board of Public Accountancy specific laws and rules. This requirement may be satisfied by completing a web based course via the Board's website or attending group training taught by a board member, board staff member, or a designee of the Board, and will count towards the 4 hour ethics requirement. The hour of CPE on Board specific rules and laws must be completed during the 36 months immediately preceding the expiration date of the current license.

(4) Licensees who are in their first calendar year of licensure must obtain CPE hours pro-rated based on the date of initial licensure.

(b) The Board may make exceptions for reasons of individual hardship including, but not limited to, health, military service, foreign residency, or other good cause. No exception shall be made solely because of age or retirement.

(c) As required by ACA 17-1-106(f), the Board shall allow a full or partial exemption from continuing education requirements for the following licensees:

- (1) An active duty military service member deployed outside of the State of Arkansas;
- (2) A returning military veteran within one (1) year of his or her discharge from active duty; or
- (3) The spouse of a person under (1) or (2) above.

In order to receive a full or partial CPE exemption, a qualifying individual must submit a written request for an exemption to the Board. The written request must explain whether a full or partial waiver of the CPE requirement is sought and why such waiver is appropriate under the individual's specific circumstances. In deciding the extent of any CPE waiver allowed under this Rule, the Board will take into consideration factors including, but not limited to:

- (1) ability to access any CPE programs;
- (2) ability to access various types of CPE;
- (3) applicant's personal circumstances; and
- (4) the length of time on duty.

(d) Responsibility for documenting the acceptability of the continuing education requirement rests with the applicant, who must retain such documentation for a period of five (5) years following the end of the year of completion of the continuing education hours.

### **13.3 PROGRAMS WHICH QUALIFY**

(a) A program qualifies as acceptable continuing education if it is a formal program of learning which contributes directly to the professional competence of an individual licensed to practice as a public accountant. The responsibility for substantiating that a particular program meets the requirements of this paragraph rests solely upon the licensee.

(b) Continuing education programs requiring attendance will qualify only if

- (1) An outline of the program is prepared in advance and preserved.

(2) The program is at least one hour (fifty-minute period) in length, excluding meal time and business session. Credit shall be based on contact hours. A 50-minute period will be considered as being equal to one hour. One-half CPE credit hours (equal to 25 minutes) are permitted after the first hour has been earned in a given program. Hours devoted to preparation by the participant shall not be counted as a contact hour.

(3) The program is conducted by a qualified instructor. A qualified instructor or discussion leader is anyone whose background, training, education or experience makes it appropriate for her/him to lead a discussion on the subject matter of the particular program. A lecturer or discussion leader shall be afforded CPE credit for preparation and presentation of a program for twice the number of CPE hours applicable for participants to the extent that the program contributes to the professional accounting competence of the applicant. Such credit does not pertain to the teaching of academic courses or other CPE courses that do not meet the criteria of Rule 13.3(a). Repetition of the same course material in the same year will not be allowable for credit as continuing education.

(4) A record of registration or attendance is maintained.

(5) The sponsor of the program is either approved registered or exempt from registration pursuant to the provisions of Rule 13.4.

(c) The following programs are examples deemed to qualify, provided Subsection 13.3(a) and (b) are met:

(1) Programs or seminars sponsored by accredited higher educational institutions [see Rule 13.4(f)(2)], government agencies, NASBA, professional organizations of Certified Public Accountants and Public Accountants, firms of Certified Public Accountants and Public Accountants, and industrial firms that meet the guidelines of Rule 13.3(b).

(2) Technical sessions at meetings of recognized national and state accounting organizations and their chapters.

(3) University or college courses offered by accredited institutions [see Rule 13.4(f)(2)] through classroom, correspondence, or distance learning. Courses taught must be upper level college courses and may only be used for CPE one time in a three year period. For credit courses, each semester hour of credit shall equal 15 hours towards the requirement, and a quarter hour credit shall equal 10 hours. For non-credit short courses, credit is computed by contact hours.

(d) Individual study programs, distance learning, independent study and self-study for which evidence of satisfactory completion is issued by the provider organization prior to January 1 of the year for which the licensee is being renewed may qualify. The Board shall accept the hours of continuing education credit recommended by the provider organization (subject to the constraints of Rule 13.3(b)(2)). NASBA's Quality Assurance Services (QAS) hours will be accepted if the course is QAS registered. Sponsors of such programs, excluding those offered by providers listed in paragraphs (c1), (c2), and (c3) above, must be registered or exempt from registration pursuant to the provisions of Rule 13.4 (see Rule 13.3(f) below).

(e) Articles, books, or CPE programs, as indicated in Rule 13.1(e), may qualify for self-declared CPE credit if the article, book or CPE program contributes to the professional competence of the licensee and has been formally accepted for publication in writing prior to the effective date of the license year (see Rule 13.3(f) below).

(f) Combined credit awarded in paragraphs 13.3(d) and 13.3(e) above shall not exceed 60 percent of the total CPE hours required.

(g) Acceptable continuing education will not include any education leading to completion of the requirements to acquire a CPA certificate. Included in this category is (1) any academic work necessary to qualify to take the CPA Examination [per Board Rule 3.3(b)] and (2) any CPA Review courses or course(s) offered for the specific purpose of preparing to take the CPA Examination.

(h) Computer science courses include those courses related to computing, networks, communications, and the internet; system software; application software involving web browsers, word processing, spreadsheets, database management systems and presentation software. These courses must have a connection to the practice of accounting, auditing, or taxation. Acceptable computer science courses do not include tutorials and/or related videos. Computer Science courses may not be used to meet the attest and accounting requirements of Rule 13.2(a)(2).

(i) Continuing education programs accepted in other jurisdictions that have a sponsor review program will be accepted.

(j) For a holder of an active CPA license in multiple jurisdictions, continuing education courses accepted by the jurisdiction of residence will be accepted. However, minimum requirements prescribed in Rule 13.2(a) must be met.

(k) Specialized knowledge courses are those courses that are related to a concentrated, specialized skill set. This field of study also includes subjects related to specialized industries, such as not-for-profit organizations, health care, or oil and gas. Specialized knowledge courses may not be used to meet the requirements of Rule 13.2(a)(1).

(l) Programs in the following subject areas are not acceptable continuing education: spirituality, personal health and/or fitness, sports and recreation, foreign languages and cultures and other subjects which will not contribute directly to the professional competence of the licensee.

#### **13.4 APPROVED SPONSORS**

(a) The sponsor of any continuing education program(s), which is not exempt under Rule 13.4(f), must, prior to offering such program(s) register as follows:

(1) Those sponsors offering programs totaling more than 16 credit hours per year, or offering programs more than 5 times per year must register with the National Registry of CPE Sponsors, administered by the National Association of State Boards of Accountancy (NASBA); sponsors of such programs in self-study format may register with NASBA's QAS as an alternative to, or in addition to, registration with the National Registry of CPE Sponsors.

(2) Those sponsors offering programs which total 16 credit hours or less per year and offering programs 5 times or less per year must either register with the National Registry of CPE Sponsors administered by NASBA or register with the Board annually using a registration form prescribed by the Board; sponsors of such programs in self-study format may register with NASBA's Quality Assurance Services as an alternative to, or in addition to, registration with the National Registry of CPE Sponsors.

(b) The sponsor of any continuing education program registered with NASBA's National Registry of CPE Sponsors or Quality Assurance Service shall comply with the requirements of the Registry. Those sponsors registering with the Board as well

as those exempt under Rule 13.4(f) shall keep detailed records of the following:

- (1) The date and location of the program presentation;
- (2) The names of each instructor or discussion leader;
- (3) A list of licensees attending each program presentation, and the license numbers of such attendees; and
- (4) A written outline of the program presentation.

(c) The records required by subparagraph 13.4(b) shall be retained for a period of 5 years after the end of the year of each program presentation.

(d) The sponsor of any continuing education program approved or exempt from registration pursuant to this rule must advise attendees of such approval or exemption, together with the sponsor number, subject code and the number of continuing education hours allowable.

(e) The Board may withdraw approval of any continuing education program if the sponsor of such program fails to comply with the provisions of this Rule.

(f) The following are exempt from registering with the Board and the NASBA Registry of CPE Sponsors:

- (1) Professional accounting and legal organizations such as the American Institute of Certified Public Accountants, the Arkansas Society of Certified Public Accountants, the National Society of Public Accountants, the Arkansas Society of Public Accountants, NASBA, the Institute of Management Accountants, the American Accounting Association, the American Bar Association, the Arkansas Bar Association, and other similar organizations;
- (2) Universities or colleges that are accredited per Rule 3.1;
- (3) Firms, both accounting and industrial, offering organized in-firm education programs which meet the requirements of Rule 13.3(a); and
- (4) Governmental entities.

### **13.5 CPE REPORTING REQUIREMENTS**

(a) Applicants for renewal of a license must submit with their annual registration a representation that the applicant has met the CPE requirement for issuance of a license together with a CPE statement, in a form prescribed by the Board, showing the continuing education programs and hours completed during the twelve months immediately preceding January 1 of the year for which the license is being renewed. The applicant must retain all supporting documentation for the programs and hours for five (5) years following the end of the year of completion.

(b) The CPE statement shall show the following:

- (1) Name of the attendee;
- (2) NASBA registration number or an E, if the sponsor is exempt;
- (3) Sponsoring organizations;
- (4) Location of program;
- (5) Title of program or description of content;
- (6) Dates attended and/or completed and submitted;
- (7) Field of Study
- (8) Hours claimed; and
- (9) Other information as designated by the Board.

(c) On an annual basis, the Board will audit the CPE statements of a selected number of licensees, and those licensees will be required to submit support documentation acceptable to the Board as part of the audit process. Licensees who fail the CPE audit can appeal to the CPE Compliance Committee, and if necessary, the full Board.

### **13.6 NONCOMPLIANCE AND SANCTIONS**

(a) Should a licensee report less than the required number of CPE hours, the licensee shall complete the balance of the CPE hours for the reporting period and provide the Board with appropriate documentation no later than January 31 of the following CPE reporting period. Delinquent CPE hours reported to the Board under Section 13.6 shall first apply to the deficiency and any remaining CPE hours shall be applied to the current CPE reporting period.

(b) Should a licensee fail to timely report CPE hours in conjunction with the renewal application or fail to timely file a report on completion of the balance of the CPE hours as provided in paragraph (a) of this section, the Board shall serve notice of noncompliance upon the licensee. The notice shall state the nature of the noncompliance. The licensee shall, within thirty (30) days of the date of the notice, deliver acceptable documentation to the Board that the licensee has successfully completed the minimum CPE hours to correct the noncompliance.

(c) In addition to the notice of noncompliance described above, the Board may institute a proceeding to impose disciplinary action against a licensee who fails to comply with any provision under Rule 13. The disciplinary action for a licensee who completes the minimum number of CPE hours during the period provided in paragraph (a) of this section shall be a monetary penalty unless the Board determines that other disciplinary action is appropriate. The disciplinary action for a licensee who failed to obtain the minimum CPE hours before the date for correction of the delinquency under paragraph (a) of this section or who completed the minimum CPE hours after notice of noncompliance under paragraph (b) of this section may be suspension of the license unless the Board determines other disciplinary action to be appropriate.

(d) A licensee who has been suspended pursuant to this section may file a petition for reinstatement which shall state the reasons for noncompliance, that the licensee is presently in compliance, any other material information and that the licensee has not performed any of the services set forth in A.C.A. § 17-12-505 since the suspension under this section. The petitioner may request a hearing and the Board may require additional CPE hours as a condition of reinstatement. Any reinstatement shall be subject to the provisions of Rule 13.9.

### **13.7 INACTIVE STATUS**

(a) A licensee on inactive status shall not perform any of the services set forth in A.C.A. § 17-12-505. If the licensee performs any such services, he shall be subject to discipline by the Board pursuant to A.C.A. § 17-12-602, et seq. or § 17-12-105.

(b) A licensee who complies with this Rule 13.7 shall be granted an exception to the continuing education requirement of A.C.A. § 17-12-502.

(c) To qualify for this exception, the licensee must annually pay the appropriate inactive status registration fee as determined by the Board and complete a form prescribed by the Board.

(d) A person on inactive status may convert to active status as follows:

1. Complete a form prescribed by the Board and submit payment of the appropriate fee(s) (initial or upgrade) for active status.
2. Comply with CPE requirements under these rules for the renewal period following reinstatement on a pro rata basis, such hours to be computed at a rate of 3 1/3 hours per month from the date of reinstatement to the end of the renewal period in which reinstatement occurs.
3. Undergo a federal and state background check.
4. Comply with the appropriate condition below:

(A) If inactive for less than three (3) years, the licensee must deliver documentation acceptable to the Board showing completion of forty (40) hours of CPE, qualified pursuant to Rule 13.2, for each consecutive (12) month period the licensee was on inactive status. For any period of less than twelve (12) consecutive months, whether alone or as part of a period exceeding twelve (12) months, the number of CPE hours shall be prorated at the rate of 3 1/3 hours of CPE per month of inactive status.

(B) If inactive for less than (1) year, the licensee will be considered not to have been inactive for CPE reporting purposes.

(C) If inactive for three (3) years or more, the licensee must develop and deliver to the Board a proposed program of CPE as specified in Rule 13.2(a) (to include four hours of accounting professional conduct and ethics). After the Board's approval of the CPE program, the licensee shall complete all of the CPE hours during the 36-month period immediately preceding the date of the licensee's application for active status. The licensee shall attach to said application documentation acceptable to the Board showing successful completion of all of the CPE hours comprising said CPE program.

(D) Applicants who have been inactive for three (3) years or more must have at least one year of experience verified by a form approved by the Board from a licensee as defined in the Act or from another state. This experience must have been earned within the five years preceding the application for active status.

### **13.8 RETIRED STATUS**

(a) Any Licensee who is no longer employed because of retirement may notify the Board of that status. A retired CPA or PA is not required to comply with the continuing professional education requirements set forth in Rule 13 or to make payment of annual license fees. To qualify for this status the CPA or PA must represent in writing to the Board that he or she does not intend to receive in the future any earned compensation for current personal services in any job whatsoever. Retired CPAs or PAs may not perform any services set forth in A.C.A. § 17-12-505, but this status does not preclude volunteer services for which the retired CPA or PA receives no direct or indirect compensation so long as the individual does not sign any documents related to such services as a CPA. If a retired CPA or PA wishes to return to active status he or she must comply with the provisions of Rule 13.7(d).

(b) Licensees who have attained the retired status may use the term "retired" adjacent to their CPA title, or PA title in lieu of "inactive" as required in A.C.A. § 17-12-505.

**13.9**           ACTIVATION OF DELINQUENT, SUSPENDED OR REVOKED LICENSES

(a) A person whose license is delinquent, suspended, void, or revoked and who applies for active status will be subject to the same CPE requirements as those who wish to activate inactive licenses (see Rule 13.7).

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## **Rule 14 QUALITY REVIEW PROGRAM**

### **14.1 PURPOSE**

There is hereby established a Quality Review Program (the "Program"). The purpose of the Program is to improve the quality of financial reporting and to assure that the public can rely on the fairness of presentation of financial information on which licensees issue reports. The Program emphasizes education and rehabilitation rather than disciplinary action. Appropriate educational programs or procedures will ordinarily be recommended or required where reporting does not comply with appropriate professional standards. However, when a licensee is unwilling or unable to comply with such standards, or a licensee's professional work is so egregious as to warrant disciplinary action, such action may be taken as the appropriate means of protecting the public interest.

### **14.2 QUALITY REVIEW COMMITTEE**

(a) The Quality Review Committee (the Committee) will assist in the implementation and administration of the Program. The Committee's responsibilities will include:

- (1) Developing procedures for the internal operation of the Committee,
- (2) Developing criteria for assignment of reviewers to specific tasks,
- (3) Assisting the Board in the selection and training of reviewers of reports,
- (4) Evaluating the findings of the reviewers of reports and making reports and recommendations to the Board,
- (5) Compiling and reporting to the Board statistics on the impact and effect of the Program, and
- (6) Considering such other matters and performing such other duties regarding the Program as may be assigned to it by the Board from time to time.

(b) The composition of the Committee:

- (1) The Committee shall be comprised of nine licensees appointed by the Board.
- (2) The President shall annually appoint one member of the Board who shall be chair.
- (3) The remaining members shall be selected at the Board's discretion from nominees submitted by professional accounting associations or from other qualified licensees identified by the Board. Their terms shall be three years and shall be staggered.

(c) The qualifications for serving as a member are:

- (1) Licensed by and in good standing with the Board.
- (2) The licensee or firm with which he is associated has completed an acceptable peer review, pursuant to Rule 14.3(d), or has completed the Board's Quality Review, both including a minimum of one category of compilation, review, and/or audit with no fail reports within three years immediately preceding the appointment; and
- (3) The licensee or his firm has no pending investigations or disciplinary matters by the Board.

(d) The chair shall vote only in case of a tie.

### **14.3 QR SURVEY**

Quality Review (QR) is to be conducted annually on one third of the licensees on a rotating basis. QR may be required more frequently as provided herein.

(a) The Board will mail a QR survey to one-third of its licensees annually. The recipient shall return the completed survey form within the time specified and submit reports, for QR purposes, when reports have been issued during the QR period as stated in the instructions in said survey form.

(b) Failure to respond to the QR survey mailed by the Board or to submit reports for QR purposes, when reports were issued during the subject period, shall be a basis for the non-renewal of the license, after notice and hearing, as provided by Ark. Code Ann. § 17-12-507.

(c) In response to the QR survey, the licensee shall submit the most recently issued audit report, review report, governmental audit report, examination of prospective financial information, agreed upon procedures report, and compilation report with disclosures if any were issued and, if not, a compilation report without disclosures, issued by the licensee since initial licensure by the Board or since June 30<sup>th</sup> of the year the latest QR survey was completed by the licensee.

(d) Submission to the Board of an acceptable peer review report, performed by a CPA, PA or firm, licensed in this or another state, and the individual CPA or PA is qualified pursuant to the provisions of Rule 14.4-14.5(a)-(e), or 14.11, which is conducted consistent with a peer review program authorized by a professional accounting organization and approved by the Board, dated within the QR period or the twenty-four months immediately preceding the QR period, will exempt the licensee from QR on that type of report. For purposes of this paragraph, acceptable peer review reports shall be those classifications designated by the peer review program that are generally comparable to pass and pass with deficiencies QR reports as defined in Rule 14.8, and which the Board identifies in its approval of the individual peer review program as comparable to pass and pass with deficiencies QR reports.

(e) A firm or licensee registered in a jurisdiction other than Arkansas that is not required to register in this state pursuant to A.C.A. § 17-12-311 or A.C.A. § 17-12-401 and that performs engagements for clients in this state that are performed in accordance with Statements on Standards for Accounting and Review Services (SSARS), such as compilations and review, must receive an acceptable peer review performed by a CPA, PA or firm in lieu of the Quality Review required under Rule 14.3 or must receive an acceptable quality review performed under the rules of the state of licensure.

### **14.4 QR REVIEWERS**

The QR reviewers shall have the following qualifications:

(a) Licensed by and in good standing with the Board,

(b) The licensee or firm in which he is associated has completed an acceptable peer review pursuant to Rule 14.3(d), or has completed the Board's Quality Review both including a minimum of one category of compilation, review, and/or audit with no fail reports within three years immediately preceding the appointment,

(c) The licensee or his firm has no pending investigation or disciplinary matters by the Board, and

(d) Shall have a minimum of 5 years experience in accounting and auditing, including experience in the type of report he will be reviewing.

#### **14.5 TEAM CAPTAINS**

Team captains shall have the following qualifications:

(a) Licensed by and in good standing with the Board,

(b) The licensee or firm in which he is associated has completed an acceptable peer review pursuant to Rule 14.3(d), or has completed the Board's Quality Review both including a minimum of one category of compilation, review, and/or audit with no fail reports within three years immediately preceding the appointment,

(c) The licensee or his firm has no pending investigation or disciplinary matters by the Board, and

(d) Shall have a minimum of 5 years experience in accounting and auditing, including experience in the type of report he will be reviewing.

(e) Shall have served as a quality reviewer for a minimum of one year, and

(f) Shall be approved by the QR Consultant.

#### **14.6 QR CONSULTANT**

The QR consultant shall have the following qualifications:

(a) Licensed by and in good standing with the Board,

(b) The licensee or firm in which he is associated has completed an acceptable peer review pursuant to Rule 14.3(d), or has completed the Board's Quality Review both including a minimum of one category of compilation, review, and/or audit with no fail reports within three years immediately preceding the appointment,

(c) The licensee or his firm has no pending investigation or disciplinary matters by the Board, and

(d) Shall have a minimum of 5 years experience in accounting and auditing, including experience in the type of reports he will be reviewing, and

(e) Shall be approved by the Board.

#### **14.7 QR PROCEDURE**

The QR process shall include:

(a) Review and classification of the report and a statement of reasons for the classification by an assigned reviewer.

(b) Review of that classification and reasons therefore by the QR team captain who may make appropriate changes after consulting with the assigned reviewer.

(c) Review of that classification and reasons therefore by the Board's QR Consultant who may make appropriate changes after consulting with both the assigned reviewer and team captain.

#### **14.8 QR CLASSIFICATIONS**

The QR will result in a determination whether each report rating is fail, pass with deficiencies, or fail.

(a) "Pass" means that the report contains no deficiencies or only minor deficiencies.

(b) "Pass with Deficiencies" means that the report contains more serious deficiencies, such as departures from the technical reporting or accounting standards set forth in Board Rule 8, but of the type that will not render the statement materially inaccurate or misleading.

(c) "Fail" means that the report is materially inaccurate or misleading; such a report violates one or more significant reporting standards, seriously departs from Generally Accepted Accounting Principles, or does not include material disclosures necessary for a fair presentation.

(d) "Deficiency" means a failure to comply with any provision in the Professional Standards identified in Board Rule 8.

#### **14.9 NOTIFICATION AND RESPONSE**

(a) The licensee will be notified in writing of the QR classification of each report. Notice of pass with deficiencies and fail reports shall be by certified mail, return receipt requested. No response is necessary for a "pass" or "pass with deficiencies" classification, and QR will be closed. If the licensee who has received a pass with deficiencies classification disagrees, he should notify the Board in writing within 30 days. The notification will instruct the licensee who has received a fail classification to reply to the Board in writing within 30 days.

(b) Pass with Deficiencies classification. If the licensee agrees with the pass with deficiencies classification, no reply is necessary and the QR is complete. However, if the licensee disagrees with the classification, he may, but is not required to file a notice including an explanation of his objection, citations to applicable professional standards, and any relevant documentation supporting his objection to the classification for consideration by QR Consultant. This notice must be written and filed with the Board within 30 days. After reconsideration of the Summary of Deficiencies and Comments, original documents from the licensee, and any supplemental information from the licensee that may have been requested by the QR Team, the QR Consultant will affirm the classification of or reclassify the licensee's report. The licensee will be notified of this result in writing for informational purposes. The QR will be closed and the licensee will remain in the same QR cycle.

(c) Fail Classification.

(1) First fail classification.

(A) Within 30 days the licensee shall respond in writing to the Board's notification of a first fail classification stating whether he agrees or disagrees with that classification.

(B) If the licensee agrees with the fail classification, the Board shall request that the licensee obtain 16 hours of CPE in specific subjects. In the event there is another fail classification on a different type of report in the same QR cycle, additional CPE may be requested. Said CPE is intended to be educational, for the purpose of improving the quality of the licensee's reports, rather than disciplinary in nature, shall not be self-study, and shall be approved in advance by the Board's Executive Director. The licensee shall complete said CPE hours and deliver acceptable documentation thereof to the Board on or before June 30 of the following year.

(C) If the licensee disagrees with the fail classification, he may deliver written notice to the Board within 30 days explaining the objection to the classification, citation to applicable professional standards and any relevant documentation supporting the licensee's objection to the classification. The QR Consultant shall review the Summary of Deficiencies and Comments, original documents from the licensee, and any supplemental information from the licensee that may have been requested by the QR Team, and will affirm the classification of, or reclassify the licensee's report. The licensee will be provided written notice of the QR Consultant's review of the report by certified mail, return receipt requested.

(D) The licensee can request that the QR Committee review the QR Consultant's reconsideration of the classification of the licensee's report. Said request shall be filed with the Board in writing within 30 days.

(E) The QR Committee will consider the classification based upon all records considered by the QR Consultant as described by paragraph (b) and determine the appropriate classification for the report. The licensee will be notified of the Committee's classification of the report in writing by certified mail, return receipt requested.

(F) The licensee can appeal the QR Committee's decision on the classification, and obtain a hearing by the Board by filing a written notice of appeal with the Board within 30 days. The Board shall notify the licensee of the time and place of the hearing and shall consider the classification of the report based solely upon the record considered by the QR Consultant and QR Committee, as per paragraph (b). When the evidence of record that the report is a fail report is considered, the Board will consider all relevant facts. Should the facts show convincingly that the report should be classified as "fail", the Board will consider the report as fail. If the evidence of record is equally balanced, or the Board cannot find that the facts are convincing, the Board shall determine that the report should not be classified as fail. Should the Board find that the report should be classified as fail, it may require appropriate action by the licensee that is designed to assure that the licensee's professional services are performed consistent with applicable professional standards as provided under these procedures.

(G) Following any first fail classification of the report that becomes final prior to appeal to the Board, the licensee will be requested to obtain the 16 hours of CPE as stated in paragraph 14.9(c)(1)(B) above. Upon request of the licensee, or should the licensee not agree to obtain CPE described above, fail to complete said CPE, or fail to timely deliver satisfactory documentation thereof to the Board, the Board shall conduct a hearing to determine whether the licensee has failed to comply with the Code of Professional Conduct and the Public Accountancy Act of 1975, Ark. Code Ann. § 17-12-101 et seq. and, if so, the necessary corrective action to be taken to improve the quality of the licensee's reports or to

otherwise protect the public interest.

(2) Second consecutive fail report.

(A) Within 30 days the licensee shall respond in writing to the Board's notification of a second fail classification stating whether he agrees or disagrees with that classification.

(B) If he agrees with the classification, the licensee will be requested to submit all of the types of reports classified as fail to a licensee approved by the Board for pre-issuance review pursuant to the Board's current Pre-Issuance Review Procedures that shall be provided to the licensee.

(C) If the licensee disagrees with the fail classification, he will be instructed to file notice including an explanation of his objection to the classification, citation to applicable professional standards, and any relevant documentation supporting his position for reconsideration by QR Consultant. The provisions set forth in subparagraph 14.9(c)(1)(D-G) for reconsideration by the QR Consultant, for review by the QR Committee and appeal to the Board are also applicable to second consecutive fail reports.

(D) Upon appeal, should the Board find that the report should be classified as fail, it may require that the licensee take action deemed appropriate by the Board to assure the licensee's professional services are performed consistent with applicable professional standards or to otherwise protect the public interest.

(E) If at any stage of the QR procedure in this subparagraph 14.9(c)(2) pertaining to second consecutive fail reports, the licensee fails to respond to the notice of the classification of the report as fail in the original review or upon reconsideration by the QR Consultant or review by the QR Committee, the Board will determine whether to schedule a hearing to find whether the licensee's report should be classified as fail and whether the Board shall require the licensee to obtain pre-issuance review and subsequent QR pursuant to the Board's current Pre-Issuance Review Procedures or take other action appropriate to protect the public interest.

(3) Third consecutive fail report.

(A) Within 30 days the licensee shall respond in writing to the Board's notification of third fail classification stating whether he agrees or disagrees with that classification.

(B) If the licensee agrees with the classification, the Board will determine whether to conduct a hearing to consider whether the licensee's report violates the Board's Code of Professional Conduct and the Public Accountancy Act of 1975, Ark. Code Ann. § 17-12-101 et seq.

(C) If the licensee disagrees with the fail classification, he will be instructed to file notice including an explanation of the objection to the classification, citation to applicable professional standards and any relevant documentation supporting his position for consideration by QR Consultant.

(D) The procedure set forth in subparagraph 14.9(c)(1)(D-G) for reconsideration by the QR Consultant, for review by the QR Committee and appeal to the Board are also applicable to third consecutive fail reports.

(E) Upon appeal, should the Board find that the report is in violation of the Code of Professional Conduct or the Public Accountancy Act of 1975, Ark. Code Ann. § 17-12-101 et seq., it may take appropriate action to protect the public interest.

(F) If at any stage of the QR procedure in this paragraph 14.9(c)(3), the licensee fails to respond to the notice of the classification of the report as fail in the original review or upon review by the QR Consultant or review by the QR Committee, the Board will determine whether to schedule a hearing to determine whether the licensee has violated the Board's Code of Professional Conduct or the Public Accountancy Act of 1975, Ark. Code Ann. § 17-12-101 et seq., and the appropriate action to be taken as a result of the violations found.

(G) Consent orders. At any stage in the QR process, when a licensee will agree not to perform any further reports that have been classified as fail or to other appropriate action to protect the public interest, the Board may resolve the controversy by an appropriate Consent Order.

#### **14.10 PRE-ISSUANCE REVIEW PROCEDURES**

(a) Pre-Issuance Reviewer (Reviewer) shall be a CPA or PA currently holding an Arkansas license to practice public accountancy, who has undergone quality or peer review within the past 3 years with reports thereon determined to be acceptable pursuant to Rule 14.3(d), and approved by the Board prior to performing pre-issuance reviews for the subject Accountant (Respondent). Prior to performing any pre-issuance review services, the Reviewer shall deliver a written confirmation to the Board to provide pre-issuance review of each financial statement or related attestation report (cumulatively "Report") prepared by the subject respondent for the period of the engagement. The Respondent whose Reports are being reviewed shall be solely responsible for any expense for the pre-issuance review.

(b) Reviewer shall review, prior to release to Respondent's client, each Report as identified above to determine compliance with professional standards identified in Board Rule 8 or otherwise applicable to the particular type of Report and shall authorize the release of a Report only after making a written determination that the Report complies with said standards. In the event a submitted Report does not comply with said standards, the reviewer shall provide written comments or instructions for the Respondent to revise the Report in compliance with applicable professional standards.

(c) Reviewer shall maintain a pre-issuance review file on each Report review performed. The file shall contain each original Report submitted to reviewer, the reviewer's written comments or instructions in any form regarding necessary revisions for the Report to comply with professional standards, any revised Report(s) and the Report(s) approved for release to the client. Reports reviewed and found acceptable with no change shall be clearly noted on the file Report, "Accepted-No Change Required".

(d) Reviewer shall maintain the pre-issuance review files for a minimum of five years after each pre-issuance review engagement is completed and shall make said records available to the Board upon request.

(e) Reviewer shall submit a written report to the Arkansas Board of Public Accountancy every ninety (90) days following the date of the Reviewer's confirmation to the Board. The report shall contain a summary of the number and type of Reports reviewed, number of Reports with no change required, and number of Reports requiring amendment. For Reports requiring change, a copy of each original Report submitted by Licensee, Reviewer notations, and/or comment sheet(s) and the revised and approved Report(s) must accompany the report.

(f) Reviewer may recommend in writing with accompanying supporting documentation that the Respondent be released from continuing pre-issuance review. Should the Board determine that the Respondent appears to have demonstrated an ability to issue Reports in compliance with applicable professional standards without the necessity of continuing pre-issuance review, it shall terminate the pre-issuance review, but may require the Respondent to participate in annual quality review for a specific or indefinite term.

**14.11 PEER REVIEWER STANDARDS**

(a) In order to qualify to perform peer review for the exemption from Quality Review requirements of 14.3, an individual licensee must have the applicable qualifications for reviewers set forth in Rules 14.4, or supervisors set forth in Rules 14.5, except 14.5(f) for team captains.

(b) An individual peer reviewer not licensed or registered in Arkansas under Ark. Code Ann. § 17-12-301 et seq., shall meet the requirements set forth in Ark. Code Ann. § 17-12-311.

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**Rule 15      SAFE HARBOR LANGUAGE**

**15.1            NON-LICENSEES – ISSUANCE OF COMPILATION REPORTS**

A.C.A. § 17-12-107(b) provides that non-licensees are not prohibited from issuing any compilation report prescribed by the Statements on Standards for Accounting and Review Services (SSARS) on any services to which those standards apply, indicating that the services were performed in accordance with standards established by the AICPA, provided that the report discloses that the person does not hold a license.

**15.2            NON-LICENSEES DISCLAIMER LANGUAGE - COMPILATIONS**

Non-licensees must use the following disclaimer language in reports issued in connection with compiled financial statements to not be in violation of the Act:

I (we) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management (owners).

I (we) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.

I (we) am (are) not licensed by the Arkansas State Board of Public Accountancy. In addition, the following language must appear on each page of the financials that contain the non-licensee's name: "*See accompanying report*".

**15.3            NON-LICENSEE DISCLAIMER LANGUAGE – USE OF TITLE “AUDITOR” OR “ACCOUNTANT”**

A.C.A. § 17-12-106(i) prohibits unlicensed firms or individuals from holding out to the public as an “accountant” or “auditor” by use of either or both of such words on any sign, card, electronic transmission, or letterhead or in any advertisement or directory without indicating thereon or therein that the person must include the following statement within any signage, document or letterhead, advertisement, or electronic transmission:

“Not licensed by the Arkansas State Board of Public Accountancy”

This statement must not be abbreviated and must appear in legible fashion so that the public could reasonably be expected to be able to read and understand the statement.

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**Rule 16 EXPERIENCE REQUIRED**

The experience required to be demonstrated for issuance of an initial certificate pursuant to A.C.A. § 17-12-309 shall meet the requirements of this rule:

- (a) Experience shall include providing any type of services or advice involving the use of accounting, attest, management advisory, financial advisory, tax or consulting skills.
- (b) The applicant shall have their experience verified to, and on a form approved by, the Board by a licensee as defined in the Act or from another state. Acceptable experience shall include employment in industry, government, academia or public practice. The Board shall look at such factors as the complexity and diversity of the work.
- (c) One year of experience shall consist of full or part-time employment that Extends over a period of no less than a year and no more than three years and includes no fewer than 2,000 hours of performance of services described in (a) above. The one year of experience gained must have occurred within the 3 years preceding the date of licensure application. Applicants may appeal to the board for extension of time in cases of extreme medical or other hardships.

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## **RULE 17      INVESTIGATION COSTS**

In the event any licensee is found to be in violation of any statute over which the Board has jurisdiction or of any Rule, the Board may order the licensee to reimburse the Board for any or all of the costs the Board reasonably incurred in investigating the violation or violations. Such costs may include, but are not limited to, the following:

- a) Reasonable travel expenses of Board staff or third parties engaged by the Board for investigative purposes;
- b) Costs associated with securing testimony from an expert witness or expert witnesses;
- c) Other professional services secured by the Board or its staff in the course of investigating the violation or violations.

## **RULE 18 DECLARATORY ORDERS**

### **18.1 ISSUANCE OF DECLARATORY ORDERS**

To the extent any licensee or other interested party has questions concerning the applicability of any rule, statute, or order enforced by the Board, the licensee or interested party may submit a written petition to the Executive Director for a declaratory order. The petition should include a recitation of all facts relevant to the subject matter of the inquiry. The Executive Director shall present the written request to the Board within ninety (90) days of receipt thereof, unless good cause requires a longer period, along with the Executive Director's proposed response to the request. The Board shall approve, modify or reject the Executive Director's proposed response within thirty (30) days of receipt thereof from the Executive Director, unless good cause requires a longer period.

### **18.2 DECLARATORY ORDERS APPROVED BY THE BOARD**

No declaratory orders prepared under this Rule by the Executive Director or by the Board's staff or counsel, whether in draft or final form, shall be valid, official or of any effect unless and until such order has been approved by the Board. The Executive Director's response to a request for a declaratory order shall be prepared by the Executive Director in consultation with the Board's legal counsel, as appropriate, and presented by the Executive Director to the Board for consideration.

### **18.3 FORM OF DECLARATORY ORDERS**

Declaratory orders shall set forth the assumed facts upon which the orders are based. The Board shall accept the facts presented in the petition and any supplement to the petition as true for purposes of formulating the declaratory order. Such assumed facts shall not constitute formal findings of fact by the Board.

Declaratory Orders shall address only the application of a rule, statute, or order enforced by the Board to an intended or contemplated, future course of conduct. The declaratory order shall interpret the applicable law or rule as applied to the facts presented, and shall not address the legality of any past or present conduct.

The identity of the requesting person shall be disclosed in the declaratory order.

If the facts and circumstances provided in the petition are insufficient in detail to enable the Board to render a declaratory order, the Board shall request supplementary information from the petitioner to enable the Board to render such order. If such supplementary information is still insufficient or is not provided, the Board shall so state and shall not render a declaratory order based upon what it considers to be insufficient detail. The timeframes outlined in this Rule shall reset upon receipt of any supplement to the petition.

### **18.4 RECORDS**

The Executive Director shall provide a copy of each declaratory order to the requesting party and to each member of the Board. The Executive Director shall keep the original order along with a copy of the original request for the declaratory order and any information or documents provided to the Board by the requesting party for a period of three years after final disposition of the declaratory order. Copies of all documents considered by the Board, the staff, or counsel in the

drafting or rendering of a declaratory order shall be retained by the Executive Director and kept in the file for that particular declaratory order.

#### **18.5 EFFECT OF ORDERS**

The Board may reconsider, withdraw, or amend prior orders upon request of a licensee or other interested party, or on its own motion, upon approval by the Board. Upon receipt of a request for reconsideration, withdrawal, or amendment of a prior declaratory order, or, upon passage of the Board's own motion to reconsider, withdraw, or amend a prior declaratory order, written notice of the request or passed motion shall be mailed to the original petitioner at the last address for that party provided to the Board. The original petitioner shall be given 30 days from the date of mailing to provide a written response. If the Board ultimately withdraws or amends the prior declaratory order, written notice of the change shall be mailed to the original petitioner at the last address for that party provided to the Board.

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## **RULE 19 LICENSURE FOR ACTIVE DUTY SERVICE MEMBERS, RETURNING MILITARY VETERANS, AND SPOUSES**

The following rules are promulgated under the authority of ACA 17-1-106.

### **19.1 TEMPORARY LICENSURE**

Upon the Board's receipt of an application for full licensure, the Board will grant to the following individuals a temporary license while completing the application process for full licensure, if the individual is the holder in good standing of a CPA license from another U.S. jurisdiction:

- (1) An active duty military service member stationed in the State of Arkansas;
- (2) A returning military veteran applying within one (1) year of his or her discharge from active duty; or
- (3) The spouse of a person under (1) or (2) above.

Completing the application process for full licensure means either:

- 1) Approval of the application for full licensure by the Board; or
- 2) The expiration of any period of time permitted to seek judicial review of the denial of an application for full licensure or completion of any judicial review proceeding and any subsequent remand proceedings following judicial review, whichever is later.

### **19.2 EXPEDITED PROCESSING FOR FULL LICENSURE**

The Board will give preference in the order of processing to applications for full licensure filed by the following individuals:

- (1) An active duty military service member stationed in the State of Arkansas;
- (2) A returning military veteran applying within one (1) year of his or her discharge from active duty; or
- (3) The spouse of a person under (1) or (2) above.

### **19.3 CONSIDERATION OF MILITARY TRAINING AND EXPERIENCE**

When considering an application for full licensure from an active duty military service member stationed in the State of Arkansas or a returning military veteran applying within one (1) year of his or her discharge from active duty, the Board will:

- (1) Consider whether or not the applicant's military training and experience in the practice of accounting is substantially similar to the experience or education required for licensure.
- (2) Accept the applicant's military training and experience in the practice of accounting in lieu of experience or education required for licensure, if the Board determines that the military training and experience is a satisfactory substitute for the experience or education required for licensure.

**19.4 EXTENSION OF EXPIRATION DATE OF LICENSE**

(a) The license of an active duty military service member or spouse of an active duty military service member will not expire until one hundred (180) days following the active duty service member's or spouse's return from active deployment.

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## **APPENDIX ONE**

### **PHYSICAL ADDRESS**

The principle office and official address of the Board is as follows: Arkansas State Board of Public Accountancy, 101 East Capitol Avenue, Suite 450, Little Rock, AR 72201. Telephone (501) 682-1520 and Facsimile (501) 682-5538.

## **APPENDIX TWO**

### **CODE OF PROFESSIONAL CONDUCT**

#### **PREAMBLE**

This Code of Professional Conduct is promulgated under the authority granted by the Public Accountancy Act of 1975, as amended, codified as A.C.A. §17-12-101 et.seq., (hereafter referred to as "the Act") which delegates to the Arkansas State Board of Public Accountancy the power and duty to prescribe rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public accountancy.

The Rules of Conduct set out below rest upon the premises that the reliance of the public in general and of the business community in particular on sound financial reporting, and on the implication of professional competence which inheres in the authorized use of legally restricted title relating to the practice of public accountancy, imposes on persons engaged in such practice certain obligations both to their clients and to the public. These obligations, which the Rules of Conduct are intended to enforce where necessary, include the obligation to maintain independence of thought and action, to strive continuously to improve one's professional skills, to observe where applicable generally accepted accounting principles and generally accepted auditing standards, to promote confidence, to uphold the standards of the public accountancy professional, and to maintain high standards of personal conduct in all matters affecting one's fitness to practice public accountancy.

Acceptance of licensure to engage in the practice of public accountancy, or to use titles which imply a particular competence so to engage, involves acceptance by the licensee of such obligations, and accordingly of a duty to abide by the Rules of Conduct.

The Rules of Conduct are intended to have application to all kinds of professional services performed in the practice of public accountancy, including tax and management advisory services, and to apply as well to all licensees, whether or not engaged in the practice of public accountancy except where the wording of a Rule clearly indicates that the applicability is more limited.

A licensee who is engaged in the practice of public accountancy outside the United States will not be subject to discipline by the Board for departing, with respect to such foreign practice, from any of the Rules, so long as his or her conduct is in accordance with the standards of professional conduct applicable to the practice of public accountancy in the country in which he or she is practicing. However, even in such a case, if a licensee's name is associated with financial statements in such manner as to imply that he or she is acting as an independent Public Accountant and under circumstances that would entitle the reader to assume that United States practices are followed, he or she will be expected to comply with Rules 201, 202 and 203.

In the interpretation and enforcement of the Rules of Conduct, the Board will give consideration, but not necessarily dispositive weight, to relevant interpretations, rulings and opinions issued by the Boards of other jurisdictions, and by appropriately authorized committees on ethics of professional organizations.



## **RULES OF CONDUCT**

### **INDEPENDENCE, INTEGRITY AND OBJECTIVITY**

#### **Rule 101 - Independence.**

A licensee in public practice shall be independent in the performance of professional services as required by professional standards as defined in Board Rule 8.2.

When a licensee or registered firm is associated with a non-licensed office or business, the licensee or registered firm shall disclose the licensee's or registered firm's lack of independence when performing attest services or compilation services for a client who has paid or is expected to pay a commission or contingent fee to such non-licensed office or business.

#### **Definition of "Associated With:"**

For purposes of Rules 101, 406, 407 and 408, the term "associated with" shall include (1) any written or non-written contractual relationship between the licensee or registered firm and non-licensed office or business whereby compensation is paid to or received from the non-licensed office or business by the licensee or registered firm in connection with the performance of professional services, (2) a situation where a relative (spouse, child, parent or sibling) of the licensee owns an interest in the non-licensed office or business, or (3) a situation where any (licensed) owner or employee of the firm, registered firm or licensee owns an interest in the non-licensed office or business.

#### **Definition of "Registered Firm:"**

For purposes of Rules 101, 406, 407 and 408, the term "registered firm" shall be defined as any partnership, corporation, professional corporation, and limited liability company of certified public accountants or public accountants registered with the Board pursuant to A.C.A. §17-12-401 et seq.

#### **Rule 102 - Integrity and Objectivity.**

In the performance of professional services, a licensee shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts—nor subordinate his or her judgment to others. In tax practice, however, a licensee may resolve doubt in favor of his or her client as long as there is reasonable support for his or her position.

#### **Rule 103 - Incompatible Occupations.**

A licensee shall not concurrently engage in the practice of public accountancy and in any other business or occupation which impairs his or her independence or objectivity in rendering professional services.

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## **COMPETENCE AND TECHNICAL STANDARDS**

### **Rule 201 - General Standards.**

A licensee shall comply with the following standards:

- (A) The licensee or licensee's firm shall undertake only those professional services that can reasonably be expected to be completed with professional competence.
- (B) The licensee shall exercise due professional care in the performance of professional services.
- (C) The licensee shall adequately plan and supervise the performance of professional services.
- (D) The licensee obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to any professional services performed.

### **Rule 202 - Compliance with Standards.**

A licensee who performs auditing, review, compilation, management consulting, tax, or other professional services shall comply with professional standards as defined in Board Rule 8.2.

### **Rule 203 - Accounting Principles.**

A licensee shall not (1) express an opinion or state affirmatively that the financial statements or other financial data of any entity are presented in conformity with generally accepted accounting principles or (2) state that he or she is not aware of any material modifications that should be made to such statements or data in order for them to be in conformity with generally accepted accounting principles, if such financial statements or data contain any departure from an accounting principle promulgated by bodies identified in Board Rule 8 to establish such principles that has a material effect on the financial statements or data taken as a whole, unless the licensee can demonstrate that by reason of unusual circumstances the financial statements or data would otherwise have been misleading. In such a case, the licensee's report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in a misleading statement. For purposes of this Rule generally accepted accounting principles are considered to be defined by pronouncements issued by the Financial Accounting Standards Board and its predecessor entities and similar pronouncements issued by other entities having similar generally recognized authority.

### **Rule 204 - Prospective Financial Statements or Data.**

A licensee shall not in the performance of professional services permit his or her name to be used in conjunction with any prospective financial statements or data in a manner which may reasonably lead to the belief that the licensee vouches for the achievability of the prospective financial statements or data.

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## RESPONSIBILITIES TO CLIENTS

### Rule 301 - Confidential Client Information.

A licensee shall not without the consent of his or her client disclose any confidential information pertaining to his or her client obtained in the course of performing professional services.

This Rule does not (A) relieve a licensee of any obligations under Rules 202 and 203, (B) affect in any way a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order of court, or prohibit a licensee's compliance with applicable laws and government regulations, (C) prohibit review of a licensee's professional practice under Board authorization, or (D) preclude a licensee from initiating a complaint with, or responding to any inquiry made by the Board or any investigative or disciplinary body established by law or formally recognized by the Board.

Members of the Board and professional practice reviewers shall not use to their own advantage or disclose any confidential client information which comes to their attention in carrying out those activities. This prohibition shall not restrict licensee's exchange of information in connection with the investigative or disciplinary proceedings described in (D) above or the professional practice reviews described in (C) above.

### Rule 302 - Records.

Licensees should make every attempt to resolve record request disputes in a professional and timely manner. In cases where agreement cannot be reached, the rules below will apply. (for purposes of the definitions below, the term "client" includes both current and former clients).

**(1) Client-provided records** are accounting or other records belonging to the client that were provided to the licensee, by or on behalf of, the client or former client, including hardcopy or electronic reproductions of such records. A licensee shall return client provided records to a client within a reasonable time after the client or former client has made a request for those records. A reasonable time shall not exceed 10 business days, though the Board may determine that the records must be returned sooner in cases in which time is of the essence. The licensee shall provide these records to the client, regardless of the status of the client's account and cannot charge a fee to provide such records. Such records shall be returned to the client in the same format, to the extent possible, that they were provided to the licensee by the client. The licensee may make copies of such records and retain those copies.

**(2) Licensee-prepared records** are accounting or other records that the licensee was not specifically engaged to prepare and that are not in the client's books and records or are otherwise not available to the client, with the result that the client or former client's financial information is incomplete. Examples include adjusting, closing, combining, or consolidating journal entries (including computations supporting such entries) and supporting schedules and documents that are proposed or prepared by the licensee as part of an engagement. These records shall also be furnished to the client within a reasonable time after the client has made a request for the records, not to exceed 20 business days. The board may determine that the records must be returned sooner in cases in which time is of the essence. The licensee may charge a reasonable fee for providing such records, and the records provided should be in a format that the client can reasonably expect to use for the purpose of accessing such work papers. Licensees may require outstanding fees to be paid before providing copies of licensee-prepared records to the client.

**(3) Licensee work products** are deliverables set forth in the terms of the engagement, such as tax returns or audit reports. Work products should be provided to the client as soon as possible, except that such work products may be withheld if:

- A) there are fees due to the licensee for the specific work product;
- B) the work product is incomplete;

- C) professional standards require withholding the work products (i.e. holding an audit report due to outstanding audit issues) or:
- D) threatened or outstanding litigation exists concerning the engagement or licensee's work.

Licensees may charge a reasonable fee for providing copies of work products after the originals have been provided to the client.

**(4) Licensee working papers** are items prepared solely for purposes of the engagement and include items prepared by the licensee, such as audit programs, analytical review schedules, and statistical sampling results and analyses, which reflect testing or other work performed by the licensee. Working papers remain the property of the licensee who developed the working papers and licensees are under no obligation to provide copies to clients or other parties unless required by law or requested by the Arkansas State Board of Public Accountancy.

It is recommended that a licensee obtain a receipt or other written documentation of the delivery of records to a client. Licensees are not required to convert records that are not in electronic format to electronic format or to convert electronic records into a different type of electronic format. However, if the client requests records in a specific format and the records are available in such a format within the licensee's custody and control, the client's request should be honored. In addition, the licensee is not required to provide the client with formulas, unless the formulas support the client's underlying accounting or other records, or the licensee was engaged to provide such formulas as part of a completed work product.

Documentation or work documents required by professional standards for attest services shall be maintained in paper or electronic format by a licensee for a period of not less than five years from the date of any report issued in connection with the attest service. Licensees must comply with the rules and regulations of authoritative federal regulatory bodies, such as the IRS, SEC, or PCAOB when the licensee performs services for a client and is subject to the rules and regulations of such regulatory body. Failure to comply with the more restrictive provisions contained in the regulations of the applicable regulatory body will constitute a violation of this Rule.

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## **OTHER RESPONSIBILITIES AND PRACTICES**

### **Rule 401 - Discreditable Acts.**

A licensee shall not commit any act discreditable to the profession.

### **Rule 402 - Acting Through Others.**

A licensee shall not permit others to carry out on his or her behalf, either with or without compensations, acts which, if carried out by the licensee, would place him in violation of the Rules of Conduct.

### **Rule 403 - Advertising and Other Forms of Solicitation.**

A licensee shall not seek to obtain clients by advertising or other forms of solicitation in a manner that is false, misleading, or deceptive. Solicitation by the use of coercion, over-reaching, or harassing conduct is prohibited.

### **Rule 404 - Firm Names.**

A licensee may practice public accounting only in a form of organization permitted by the Act. A licensee shall not practice public accountancy under a name which is misleading in any way, as to the legal form of the firm, or as to the persons who are partners, managers, members, officers or shareholders of the firm, or as to any matter with respect to which public communications are restricted by Rule 403. However, names of one or more past partners, members or shareholders may be included in the firm name of a partnership, limited liability company or corporation or its successor, and a partner or member surviving the death or withdrawal of all other partners or members may continue to practice under a partnership or limited liability company name for up to two (2) years after becoming a sole practitioner.

A fictitious firm name (that is, one not consisting of the names or initials of one or more present or former partners, members or shareholders) may not be used by a CPA firm unless such name has been registered with and approved by the Board as not being false or misleading.

A firm may not include the term "Associates" or "Company" unless the firm has at least two full time CPAs on staff.

### **Rule 405 - Practice in Un-registered Entity.**

A licensee shall not practice public accountancy in association with a sole proprietor, partnership, corporation or other entity which is not registered with the Board, unless the appropriate disclaimer is used as provided in Board Rule 15.3.

### **Rule 406 - Notification by Licensees Who Are Associated With a Non-licensed Office or Business.**

A licensee or registered firm that is associated with a non-licensed office or business which performs professional services as defined in §17-12-103(15) of the Act shall notify the Board of such offices or businesses within 30 days after the creation of the relationship. Notice must be similarly given by the licensee or firm when the relationship terminates. No form is provided for such notices, but they must be in writing and whether in letter form or otherwise, they must clearly be labeled with "Notice of Association With, or Ownership of, Non-Licensed Office or Business." A separate notice must be provided for each such non-licensed office or business.

Information to be contained in the notices shall include:

Name of Non-licensed Office or Business

Name of Owner(s), and Percentage of Ownership of Each (if more than one)

Name of Manager of Office or Business  
Address of Office or Business  
Phone Number of Office or Business  
Nature of Professional Services Performed  
Effective Date of Relationship or Termination.  
Additional information may be requested by the Board.

**Rule 407 - Referral or Recommendation between a Licensee or Firm in Which a Licensee is an Owner or Employee and a Non-licensed Office or Business Performing Professional Services With Which the Licensee or Firm is Associated.**

Any licensee or registered firm that accepts a client that results from a recommendation or referral by a non-licensed office or business with which the licensee or firm is associated shall disclose such association or ownership to the client at the time the client is accepted. Similarly, a licensee or registered firm that refers or recommends a client to a non-licensed office or business with which the licensee or firm is associated must disclose that relationship to the client at the time of the referral or recommendation. No form is provided for such notices, but they must be in writing and delivered to the client.

**Rule 408 - Notification to Client of Acceptance of Commissions or Referral Fees.**

A licensee or registered firm that is paid or expects to be paid a commission or who accepts a referral fee shall disclose the existence of such commission or referral fee to the client at the time the referral is made. A licensee or registered firm who pays a referral fee to obtain a client shall disclose to the client the existence of such payment of the fee prior to accepting the client. No form is provided for such notices, but they must be in writing and delivered to the client.

**Rule 409 - Communications.**

A licensee shall, when requested, respond to communications from the Board within thirty (30) days of the mailing of such communications by registered or certified mail. The Executive Director of the Board may require a response earlier than 30 days if he or she determines that an earlier response is necessary to prevent public harm.

**Rule 410 - Change of Address or Business Affiliation.**

A licensee shall comply with Board Rule 9 regarding change of address or business affiliation.

**Rule 411 - Failure to File Tax Returns.**

The willful failure by the licensee to file an income tax return, including his or her own, and the resulting conviction, plea of guilty or nolo contendere in connection therewith, shall be considered conduct discreditable to the public accounting profession.

**Rule 412 - Criminal Convictions/Disciplinary Actions**

- a) A licensee who is convicted of or pleads guilty or nolo contendere to any crime other than a traffic violation, regardless of whether the adjudication of guilt or sentence is withheld, suspended or deferred in any court of this state, another state, or the federal government, shall make a written report thereof to the Board within thirty (30) days after the conviction or plea. The report shall include the date of the offense and of the conviction or plea, the name and address of the court, the specific crime for which convicted or to which the plea is entered, the fine, penalty and/or other sanctions imposed, and copies of the charging document and judgment of conviction or other disposition, including probation or suspension of sentence. The report shall also include the licensee's explanation of the circumstances which led to the charge and conviction or plea, along with any other information which the licensee wishes to submit.

- b) A licensee who after the initiation of an investigation, hearing or other administrative action surrenders or who has a professional, vocational or occupational license, permit certification or registration to practice public accountancy by an agency of any state or the federal government denied, revoked, suspended or cancelled or who is subject to any sanctions, including probation, involving such license, permit certification or registration shall make a written report thereof to the Board within thirty (30) days after such action. The report shall include the date of the action, the name and address of the regulatory agency which has taken the action and copies of documents pertaining thereto. The report shall also include the licensee's explanation of the circumstances which led to the action, along with any additional information the licensee wishes to submit.
- c) An applicant for a license who has been convicted of or pleaded guilty or nolo contendere, as described in paragraph (a) above, to any crime other than a traffic violation or who after initiation of an investigation, hearing or other administrative action has surrendered or has had a professional, vocational or occupational license, permit, certification or registration denied, revoked, suspended or canceled or who has been subjected to any sanctions, including probation, as described in paragraph (b) above, involving such a license, permit, certification or registration shall furnish the written report referred to in paragraph (a) and/or (b) above to the Board at the time the application is submitted if such action has already occurred; otherwise, such report shall be made immediately after the action occurs.

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