

Arizona Administrative Register
Notices of Proposed Rulemaking

44-1481 and 44-1522.

3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Ruth R. Lee, Executive Director
Address: Arizona State Board of Accountancy
3877 North 7th Street, Suite 106
Phoenix, Arizona 85014
Telephone: (602) 255-3648, Ext. 18
Fax: (602) 255-1283

4. An explanation of the rule, including the agency's reasons for initiating the rule:

As a result of the 5-year rule review, the Accountancy Board recognized that the rules needed further clarification in defining the procedures relating to examination, certification, and regulation of certified public accountants, public accountants, and firms.

Article 1 includes additional definitions for clarification; for confidentiality purposes eliminates reference to the preexamination to correspond to a change in A.R.S. § 32-723 and clarifies the extent of the records that are included in the interpretation of the statutes; references A.R.S. § 41-1092 to include the procedures for utilizing Administrative Law Judges; sets forth a clear description of Board committees which resulted in the addition of 2 new subsections; and changes wording in an effort to clarify procedures in contested hearings.

Article 2 addresses examination issues that have been changed or deleted from Board procedures. All reference to the preexamination has been eliminated to correspond to the amendments previously made to A.R.S. § 32-723; procedures adopted by the Board for candidates to review or request review of examination papers have been added for the candidates' benefit; an outdated section setting forth procedures for a transition period is being repealed because it references a 1994 Board rule change which is no longer pertinent; and an addition of a section is included to set forth the required proof of additional study for unsuccessful examination candidates who have taken the examination more than 3 times with no sign of improving grades.

Article 3 subsection amendments address certification procedures. The description of the experience requirement is a repeat of the statute so it is being repealed; statute and rule references have been added; the word "firm" has been added as an all inclusive reference to the many different forms of accounting firms; a limit has been placed on the time a registrant can remain in suspended status in an effort to more carefully protect the public; a subsection has been added to address the restrictions in place for inactive status established by statute; and some verbiage has been amended for clarification purposes.

Article 4 has 2 main topics which have been addressed by the Board: 1 is continuing professional education (CPE) and 1 is the various aspects of the professional code of conduct. In the area of continuing professional education, the Board has attempted to clarify the amount of credit that will be granted for lecturing and for computer courses. In addition, the amount of credit due under specific circumstances has been clarified. One subsection, taking the CPA examination in lieu of taking CPE, is being repealed because it has never been utilized and is not likely to be utilized. For amendments to the professional code of conduct, the Board has attempted to bring the wording into line with industry-wide standards and eliminate reference to out-dated standards. The amendment addressing the form of practice and name is included to assist registrants and the public in identifying firms that have been officially registered with the Board.

5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

6. The preliminary summary of the economic, small business, and consumer impact:

The proposed amendments are primarily procedural in nature and will not have an economic impact on small business or the public.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Ruth R. Lee, Executive Director
Address: Arizona State Board of Accountancy
3877 North 7th Street, Suite 106
Phoenix, Arizona 85014
Telephone: (602) 255-3648, Ext. 18
Fax: (602) 255-1283

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments will be accepted by the Board at its office until the close of record. An oral proceeding has been scheduled as follows:

Date: Monday, September 14, 1998

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Time: 1:30 p.m.
Location: Arizona State Board of Accountancy
3877 North Seventh Street, Suite 106
Phoenix, Arizona 85014

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
10. Incorporations by reference and their location in the rules:
None.
11. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

ARTICLE 1. GENERAL PROVISIONS

Section	
R4-1-101.	Definitions
R4-1-102.	Powers of the Board: <u>Applicability; Excuse; Extension</u>
R4-1-104.	Board records; public access; copying fees <u>Records; Public Access; Copying Fees</u>
R4-1-105.	Confidential records <u>Records</u>
R4-1-113.	Meetings; Examinations
R4-1-114.	Contested cases <u>Cases; Hearing</u>
R4-1-115.	Accounting and auditing standards committees <u>Advisory Committees</u>
R4-1-115.01	<u>Law Review Advisory Committee</u>
R4-1-115.02	<u>Continuing Professional Education Advisory Committee</u>
R4-1-116.	Certification advisory committee <u>Advisory Committee</u>
R4-1-117.	Procedure: witnesses; service <u>Witnesses; Service</u>

ARTICLE 2. CPA EXAMINATION PROVISIONS

R4-1-226.	Applications; Examination
R4-1-227.	Examination grades; notice of grades <u>Repeal</u>
R4-1-228.	Papers <u>Examination; Processing Grades and Papers</u>
R4-1-229.	Condition Credit
R4-1-230.	Non-conditioned candidates <u>Candidates; evidence</u> <u>Evidence of additional study</u> <u>Additional Study</u>

ARTICLE 3. CERTIFICATION AND REGISTRATION PROVISIONS

R4-1-342.	CPA certificates <u>Certificates; by reciprocity</u> <u>Reciprocity</u>
R4-1-343.	Accounting experience requirement <u>Experience Requirement</u>
R4-1-344.	Denial of certification <u>Certification</u>
R4-1-345.	Registration; certificate renewal <u>Certificate Renewal</u>
R4-1-346.	Notice of Change of Address

ARTICLE 4. REGULATION PROVISIONS

R4-1-453.	Continuing Professional Education Requirement
R4-1-454.	Periodic re-examination <u>Repeal</u>
R4-1-455.	Rules of Professional Conduct: Independence, Integrity, and Objectivity
R4-1-455.01.	Rules of Professional Conduct: Competence and Technical Standards
R4-1-455.02.	Rules of Professional Conduct: Responsibility to Clients
R4-1-455.03.	Rules of Professional Conduct: Other Responsibility

ties and Practices
R4-1-455.04. Rules of Professional Conduct: Interpretations

ARTICLE 1. GENERAL PROVISIONS

R4-1-101. Definitions

In these rules, unless the context otherwise requires:

1. "Board" means the Board of Accountancy created by A.R.S. § 32-701.
2. "Certificate" means a certificate granted and issued by the Board authorizing the use of the CPA designation.
3. "Certified public accountant" or "public accountant" includes any individual, partnership, professional corporation, or professional limited liability company registered as such by the Board.
4. "Client" means the person or entity which retains a certified public accountant or public accountant, engaged in the practice of public accounting, for the performance of professional services.
5. "Contested case" means any proceedings in which the legal rights, duties, or privileges of a party are required by law to be determined by any agency after an opportunity for hearing.
6. "Expired" means the termination of a registrant's certificate if a registrant fails to reinstate the certificate within 12 months after it has been suspended for nonregistration or if a registrant fails to reinstate a certificate that has been inactive for more than 6 years.
7. "Financial statements" means statements and footnotes related thereto to them that purport to show financial position which relates to a point in time or changes in financial position which relate to a period of time, and statements which use a cash or other incomplete comprehensive basis of accounting. Balance sheets, statements of income, statements of retained earnings, statements of changes in financial position cash flows, statements of changes in owner's equity and other commonly used or recognized summaries of financial information are financial statements. The statement, affidavit, or signature of preparers required on tax returns neither constitutes an opinion on financial statements nor requires a disclaimer of such the opinion.
8. "Party" means each person or agency named or admitted as a party, or properly seeking and entitled, as of right, to be admitted as a party.
9. "Person" may include any individual, any form of corporation, partnership, or professional limited liability company.
10. "Practice of accounting" means the providing of any accounting services, including recording and summariz-

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ing of financial transactions, analyzing and verifying financial information, reporting of financial results to an employer, clients, or other persons, and the rendering of tax and management advisory services to an employer, clients, or other persons.

- 9 11. "Practice of public accounting" means the practice of accounting by a certified public accountant or public accountant.
12. "Registrant" refers to any certified public accountant, public accountant, or firm registered with the Board.
13. "Relinquishment" means the voluntary surrender of a registrant's certificate pending an investigation.

R4-1-102. Powers of the Board; Applicability; Excuse; Extension

~~A.R.S. § 32-703(A) provides that this "Board may adopt, and amend, regulations for the conduct of its affairs and for the administration of this chapter". These regulations shall be cited as the Arizona State Board of Accountancy rules and regulations.~~

- ~~1A. Notice; part of record; amendment: These rules apply to all actions and proceedings of the Board and shall be are deemed a part of the record in every action or proceeding without formal introduction of, or reference to the same. All parties are deemed to have knowledge of the same rules. A copy will be supplied. The Board shall supply a copy of the rules to any person free of charge by the Board.~~
- 2 ~~B. Excuse of failure to comply: The Board, when it is within its jurisdiction, may, in the interest of justice, excuse the failure of any person to comply with any of these rules.~~
- 3 ~~C. Extension of time: The Board, or in case of an emergency, the President, when it is within its jurisdiction, may grant an extension of time within which to comply with any rule when it shall deem such the extension to be proper and is reasonable.~~

R4-1-104. Board records; public access; copying fees
Records; Public Access; Copying Fees

- A. The Board shall maintain all records, subject to A.R.S. § 41-1351, reasonably necessary or appropriate to maintain an accurate knowledge of its official activities including, but not limited to, applications for C.P.A. and P.A. certificates and supporting documentation and correspondence, applications to take the uniform certified public accountant examination; requests for annual registration; documents, transcripts, and pleadings relating to disciplinary proceedings and to hearings on the denial of a certificate; investigative reports; staff memoranda; and general correspondence between any person and the Board, members of the Board, or staff members.
- B. Except as provided in R4-1-105, all records of the Board shall be are available for public inspection and copying as provided in this Section.
- C. Any person desiring to inspect or obtain copies of records of the Board available to the public under these rules shall make a request to the Board's Executive Director or designate the Director's designee, during regular office hours. The Executive Director shall, as soon as possible within a reasonable time, advise the person making the request whether the records sought can be made available, or, if the Executive Director is unsure ~~as to~~ whether a record may be made available for public inspection and copying, the Executive Director shall refer the matter directly to the Board for final determination.
- D. ~~No~~ A person shall not remove original records of the Accountancy Board shall be removed from the Office of the Board unless they are in the custody and control of a Board member, a member of the Board's committees or staff, or the

Board's attorney. The Executive Director may designate a staff member to observe and monitor any examinations of Board records.

- E. Copies of all records available for public inspection and copying shall be provided according to the procedures described in Article 2, Chapter 1, Title 39, A.R.S. A.R.S. Title 39, Chapter 1, Article 2.
- F. Any person aggrieved by a decision of the Executive Director's denial of access to records of the Board may request a hearing before the Board to review the Executive Director's action by filing a written request for hearing. Within 60 days of receipt of the request, the Board shall conduct a hearing on the matter. If the person ~~desiring access to Board records~~ requires immediate access to Board records, ~~he~~ the person may request and may be granted an earlier hearing, ~~provided he if the person~~ sets forth sufficient grounds therefor for immediate access.

R4-1-105. Confidential records
Records

- A. Complaints, reports, photographs, transcripts, correspondence and other documents relating to an investigation by the Board of possible violations of the Arizona accountancy statutes or the these rules and regulations promulgated thereunder shall not be made available for public inspection and copying, except that investigative records shall be made available to for public inspection and copying upon the institution of civil enforcement or ~~informal or formal~~ disciplinary proceedings against the person who is the subject of the investigation.
- B. Correspondence between the Board, members of the Board or staff members, members of the Board's committees and the Board's attorney shall not be made available for public inspection and copying.
- C. The questions contained in the uniform certified public accountants examination and the examinee's answers, in pre-examination tests in re-examination tests and in the Board's examination for foreign applicants shall not be made available for public inspection and copying except that the questions shall be made available to examinees for purposes of taking the examination at the time and place designated by the Board, and the questions contained in the uniform certified public accountants examination shall be made available to public inspection and copying at the conclusion of the examination an examinee may submit to the Board, in writing, a request for a grade review or an appeal to review specific questions and answers related to the examinee's own examination papers.
- D. The answers of individual examinees and their respective examinees' grades on the uniform certified public accountants examination, ~~the pre-examination tests, the re-examination tests and the Board's examination for foreign applicants~~ shall not be made available for public inspection and copying, except that: the Board may disclose the identity of those who pass the examination after the date set by it for the release of grades.
 1. ~~The fact of passing or failing each part of the examination by each examinee shall be made available to public inspection and copying on and after the date set by the Board for release of examination grades;~~
 2. ~~An examinee shall, upon written request, be granted access to his own examination papers.~~
- E. Letters of reference received in connection with applications for certificates shall not be made available for public inspection and copying.
- F. Resumes, employment applications, personnel evaluations and injury reports regarding employees of the Board or appli-

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cants for employment shall not be made available for public inspection and copying, except that such the records shall be disclosed as directed by the employee or applicant concerned.

- G. Minutes of executive sessions of the Board and its committees and those portions of the Board's or committees' agendas containing confidential information shall not be made available for public inspection or copying.
- H. The Board may, in the case of a record not otherwise made confidential by this Section, order that such the record not be made available for public inspection or copying whenever the Board determines that public disclosure of such the record would have a significant and adverse effect on the Board's ability to perform its duties and would otherwise be detrimental to the best interests of the state.
- I. Notwithstanding subsections (A) through (H) of this Section, the Board may order that any record of the Board made confidential under this Section be made available for public inspection and copying when it determines that the reasons justifying the confidentiality of such the record ~~not~~ no longer exist.

R4-1-113. Meetings; Examinations

A. The Board and its committees shall conduct meetings shall be conducted in accordance with the current edition of Robert's Rules of Order insofar as not incompatible if these rules are compatible with the laws of the state of Arizona or its own resolutions as to its conduct regarding meetings.

- 1. Regular Meetings and special meetings of the Board of Accountancy for the purpose of conducting general business shall be held subject to the call of called by the President or a majority of the Board members.
- 2. Special Regular and special meetings of the Board of Accountancy committees may shall be held at any time subject to the call of called by the President chairperson or a majority of the Board committee members.
- 3. Examinations:

B. The Board shall designate the time and place for conducting the CPA examination in accordance with A.R.S. § 32-723(A). (See Article 2.)

R4-1-114. Contested Cases; Hearing

A. Hearing: All hearings shall be conducted before the The Board or its hearing officer an Administrative Law Judge (ALJ) employed by the Office of Administrative Hearings (OAH) shall hear all contested cases. Hearings held by the Board shall be conducted pursuant to the provisions of A.R.S. § 32-743 Title 41, Chapter 6, Article 10 as supplemented and amplified by A.R.S. Title 41, Chapter 6, Article 6 R4-1-117. Hearings held by OAH shall be conducted pursuant to A.R.S. § 41-1092 et seq. Title 41, Chapter 6, Article 10 and the rules and procedures established by OAH. To the extent applicable they do not conflict with A.R.S. Title 41, Chapter 6, Article 10, the provisions of A.R.S. § 32-743 apply to hearings conducted by the Board and OAH. The following subsections apply to hearings conducted by the Board and hearings conducted by OAH where applicable.

- 1. Power to Join any Interested Party: Any Board member or the hearing officer ALJ may join as a party applicant or as a party defendant, any person, firm or corporation, who may or might appear to have an interest in the matter before the Board.
- 2. Stipulation at Hearing: The parties may stipulate to any facts that are not in dispute. Such The stipulation may be in writing, or may be made orally by reading the same

stipulation into the records record at the hearing, and will be is binding upon the parties unless the Board or the hearing officer ALJ grants permission to withdraw therefrom from the stipulation. The Board or the hearing officer ALJ may set aside any stipulation and proceed to ascertain the true facts.

3. Settlements and Consent Decisions Orders: At any time before or after formal disciplinary proceedings have been instituted against a registrant, the registrant may submit to the Board an offer of conditional settlement whereby, instead of formal disciplinary proceedings by the Board, in which the registrant agrees to take specific remedial steps such as enrolling in continuing education courses, limiting the scope of the registrant's practice, accepting limitation on the filing of public reports, and submitting the registrant's work product for peer review to avoid formal disciplinary proceedings by the Board. If the Board determines that the proposed conditional settlement will protect the public safety and welfare and is more likely to rehabilitate or educate the registrant than formal disciplinary action under A.R.S. § 32-741, the Board may accept the offer and enter a decision an order that incorporates the registrant's proposed conditional settlement and to which the registrant consents. A consent decision order issued under this subsection shall provide that, upon successful compliance by the registrant with all provisions of the decision order, the disciplinary proceedings shall be terminated and any notice of hearing previously issued shall be vacated. The consent decision order shall further provide that, upon failure of the registrant to comply with all provisions of the decision order, or upon the discovery of material facts unknown to the Board at the time it issued the decision order, formal disciplinary proceedings against the registrant may be instituted or resumed. The consent decision order additionally may provide that, upon failure of the registrant to comply with all provisions of the decision order, the Board may immediately and summarily suspend the registrant's certificate for not more than 1 year. Within 30 days after the summary suspension, the registrant may request a hearing solely concerning the issue of compliance with the consent decision order.

4. Decisions and Orders: All decisions and orders of the Board shall be made by a majority vote of the members of the Board considering the case. A decision to continue or reschedule a meeting or to grant an extension of time for performing acts required by these rules or an order of the Board may be made by the President unless the President is directed otherwise by the Board. The final decision in a contested case shall be in writing or stated in the record and shall state separately the findings of fact and conclusions of law, upon which the decision was is based, and the Board's order to implement the decision. All written decisions and orders of the Board shall be signed by the President or Secretary of the Board. When the Board suspends or revokes the certificate of a registrant, the Board may order the registrant to return the registrant's certificate within 30 days of receipt of the order. All parties, or and their attorneys of record, and the Attorney General shall be served with a copy of all decisions and orders of the Board as provided in R4-1-117.

B. Hearing Officer: The Board may appoint a hearing officer to hear any contested case before the Board. In such cases the hearing officer may enter all orders necessary to conduct the

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hearing and may issue subpoenas and cause depositions to be taken as provided in R4-1-117. Within 30 days after the conclusion of the hearing, the hearing officer shall submit to the Board written recommendations which shall include proposed findings of fact, conclusions of law, and order. The recommendation of the hearing officer may be approved or modified by the Board.

ALJ: In hearings conducted by OAH, the ALJ shall provide to the Board written findings of fact, conclusions of law and recommended order within 30 days after the conclusion of the hearing or as otherwise provided by A.R.S. Title 41, Chapter 6, Article 10. The Board's decision approving or modifying the hearing officer's ALJ's recommendations shall be the final decision of the Board, subject to the filing of a motion for rehearing as provided in subsection (C) of this Section.

- C. Rehearing: Any party aggrieved by a decision of the Board may, within ~~15~~ 30 days after service of any decision of the Board, file with the Board a written motion for a rehearing specifying the particular grounds ~~therefor~~ for a rehearing. The Attorney General may file a response to the motion for rehearing within ~~10~~ 15 days after service of ~~such~~ the motion. The Board may require the filing of written briefs upon issues raised in the motion for rehearing and may provide for oral argument. Upon review of the motions and briefs, the Board may modify the decision or vacate it and grant a rehearing for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 2. Misconduct of the Board or its hearing officer ~~the ALJ~~;
 3. Accident or surprise which could not have been prevented by ordinary prudence;
 4. Material evidence, newly discovered, which with reasonable diligence could not have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
 7. That the findings of fact, conclusions of law and order is not justified by the evidence or is contrary to law.

R4-1-115. Accounting and auditing standards committees Advisory Committees

- A. No Change.
B. No Change.

R4-1-115.01. Law Review Advisory Committee

- A. The Board may appoint a Law Review Committee to assist it in the evaluation of its statutory and regulatory provisions. The committee shall make advisory recommendations to the Board.
- B. The Board, in its discretion, may accept, reject or modify the recommendations of this advisory committee.

R4-1-115.02. Continuing Professional Education Advisory Committee

- A. The Board may appoint an advisory committee to assist it in the evaluation of continuing professional education (CPE). The committee shall make advisory recommendations to the Board concerning the following:
1. CPE programs.
 2. Individual registrant's satisfaction of CPE requirement.
 3. Applications for exemptions from CPE requirements under A.R.S. § 32-730.

- B. The Board, in its discretion, may accept, reject or modify the recommendations of this advisory committee.

R4-1-116. Certification advisory committee Advisory Committee

- A. The Board may appoint an advisory committee to assist in the evaluation of applicants for the Uniform Certified Public Accountant Examination and for certified public accountant. The committee shall review applications, transcripts and related materials and make advisory recommendations to the Board concerning the qualifications of applicants for the CPA exam and for certification of certified public accountant.
- B. The Board, in its discretion, may accept, reject or modify the advisory recommendation in determining the qualifications of applicants.

R4-1-117. Procedure: ~~witnesses, service~~ Witnesses; Service

- A. ~~Pleadings; depositions; briefs; etc. and related documents:~~ All papers of importance such as pleadings, depositions, briefs, etc., and related documents shall be printed or type-written and, when not printed, only 1 side of the paper shall be used.
- B. Witnesses: All parties desiring witnesses to be summoned to testify at a hearing before the Board must ~~shall~~ make application to the Board to issue subpoenas to ~~such~~ the witnesses.
- C. Witness' depositions: ~~When any~~ Any party desiring to take the oral deposition of any witness residing outside the state, ~~such party~~ shall file with the Board a petition for permission to take the deposition of ~~such~~ the witness, showing the name and address of ~~such~~ the witness and setting forth specifically and in detail the nature and substance of the testimony expected to be given by ~~such~~ the witness. ~~Said~~ The petition may be denied unless it appears from such petition that if the testimony of ~~such~~ the witness is not relevant and material, and if such statement be not made specifically and in detail, so that the Board may determine therefrom the relevancy and materiality of the testimony of such witness, such petition may be disregarded. Upon the granting of such petition if the petition is granted, the party may proceed to take the deposition of the witness by complying with the Arizona Rules of Civil Procedure. The Board may, in its discretion, designate the time and place and the officer before whom such a deposition may be taken. The expense of any ~~the~~ deposition must ~~shall~~ be borne by the party applying to the Board for permission to take ~~same~~ the deposition.
- D. Witness' interrogatories: Any party desiring to take the testimony of a witness residing outside the state by means of interrogatories may do so by serving the adverse party as in civil matters and by filing with the Board in duplicate a copy of the interrogatories and a statement showing the name and address of ~~such~~ the witness, and containing the interrogatories such party wishes such witness to answer. The adverse party may file in duplicate cross-interrogatories within 10 days following the service upon him of a copy of said statement with a copy of the statement within 10 days following the service upon the person. Any party having any an objection to the form of any an interrogatory or cross-interrogatory may file a statement of his the objections with the Board within 5 days after the service upon him of the interrogatories or cross-interrogatories, and may suggest to the Board any amendment to any an interrogatory or cross-interrogatory. The Board may amend, add or strike out any an interrogatory when in its judgment it is proper to do so.

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The deposition of any witness shall be taken in such manner as in the judgment of the Board is best calculated to ascertain the substantial rights of the parties and to expedite the investigation of the facts.

1. Notwithstanding the fact that a party may petition for permission to take the oral deposition of a witness, the Board may require it to be taken upon written interrogatories and vice versa.
 2. A copy of the deposition or answers to the interrogatories must ~~shall~~ be returned and filed with the Board within 45 days after permission for the taking of the same is granted ~~the~~ interrogatories have been answered.
- DE.** Subpoenas: The Board officer, presiding at a hearing, may ~~cause to be issued~~ issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and shall have the power to administer oaths. Any party desiring the Board to issue a subpoena to compel the appearance of a witness at ~~any a~~ a hearing shall ~~do so in writing and make application therefor, stating the substance of the witness's testimony expected of the witness.~~ If such the testimony appears to be material and necessary, a the Board shall issue the subpoena will be supplied. The affixing of the seal of the Board and the signature of a Board officer shall be sufficient attestation of the same. Service of such the subpoena must shall be made at the expense of the party applying for same and shall be made in the manner provided by law for service of subpoenas in civil actions request-ing it.
- EE.** Service, same as civil action:
1. Service of any decision, order, subpoena, notice, or other processes may be made personally in the same manner as a summons is served in a civil action, and, in such event, service shall be deemed complete at the time actually made.
- F.** Service by mail:
12. ~~Service may also be made of any decision, order, notice or other process by enclosing the same copy or a copy thereof. Other than as provided for in paragraph 5 below, service of any document may also be made by personal service or by enclosing a copy of the document in a sealed envelope and depositing the same in the United States mail, with first-class postage prepaid, addressed to the party served, at the address as shown by the records of last provided to the Board.~~
 23. Service shall be deemed complete when the paper to be served is so deposited; provided that where the distance between the place of mailing and the place of address is more than 100 miles, ~~service~~ Service shall be deemed complete 1 day after the deposit of the paper for each 100 miles, ~~or majority fraction thereof distance between the place of deposit and the place of address.~~ In any event, service shall be deemed complete within 6 days after the date of mailing.
 34. In computing time, the date of mailing is not counted; ~~all~~ All intermediate Sundays and holidays are ~~to be~~ counted; ~~but~~ but, if the last day falls on a Sunday or a holiday, ~~it is not to be counted, but that day shall not be counted and service will shall be considered~~ completed on the following date.
 45. All notices of hearings before the Board and all final decisions of the Board shall be, when mailed, mailed by certified mail to the last known address as reflected in the records of the Board.
- G.** Service of subpoenas: ~~Service of any subpoena issued by the Board shall be served as provided in subsection (E) or as in~~

~~civil actions. Subpoenas issued at the request of the Board or a member thereof may be served by any member of the Board or of the Board's staff, or any attorney or agent of the Attorney General's Office.~~

- GH.** Service upon attorney: Service upon an attorney who has appeared in on behalf of a party will constitute service upon ~~such the~~ party.
- HI.** Proof of service: ~~Proof of service by mail may be made by filing with the Board a written statement that service has been made. Proof of service made under subsections (E) or (G) of this Section may be made by filing with the Board a written affidavit or by oral testimony before the Board of the person making such service. shall be by affidavit, as provided by law, or by proof of mailing by certified mail or by affidavit of first-class mailing.~~

ARTICLE 2. CPA EXAMINATION PROVISIONS

R4-1-226. Applications; Examination

- A.** Persons desiring to take the examination for qualification as certified public accountant shall apply on a form provided by the Board which ~~shall include the following information: applicant's name, address and telephone number; description of applicant's education background; applicant's prior examination status and sites; applicant's background information; authorization for investigation; and affirmation of truthfulness.~~ Different forms ~~will~~ shall be provided for original examinations and re-examinations. The applicant shall ~~cause to be forwarded~~ submit with the application to the Board office Registrar-certified, or the equivalent, university or college transcripts to confirm that the Bachelor's Degree educational requirements set forth in A.R.S. § 32-721 have been completed.
- B.** Filing date: Examinations are held twice a year in months designated by the Board. All application forms, fees and photos shall be filed ~~during~~ no earlier than the 1st day of the 4th month and no later than the last day of the 3rd calendar month preceding the examination for which the candidate makes application. For purposes of this Subsection, applications shall be considered filed on the date received by the Board office. Applications received after 5:00 p.m. on the last day for filing shall be considered late except that, if the last day for filing falls on a Saturday, Sunday or a legal holiday, the applications shall be considered ~~filed by the required date~~ timely if received in the Board Office by 5:00 p.m. on the 1st working day thereafter. Late applications will not be accepted.
- C.** Application fees: Each applicant to sit for the examination shall be charged an examination fee pursuant to A.R.S. § 32-729 in the following amount:
1. Initial applicants: For an examination where the applicant has not previously filed an application in Arizona for the examination, \$175.00.
 2. Retake noncondition applicants: (See also R4-1-230) For an examination where the retake applicant has no condition, \$175.00.
 3. Retake condition applicants: (See also R4-1-229) For an examination where the retake applicant has a condition from this state, \$50.00 for each section of the examination which has not been successfully completed.
 4. Out-of-state candidates: All candidates applying through a state other than Arizona, but sitting for the examination in Arizona, shall pay the applicable fee set forth in paragraph (1), (2), or (3).
 5. Pre-examination applicants: ~~For the pre-examination required under A.R.S. § 32-723(B), \$60.00.~~

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6-5. Refunds:

- a. One-half of the examination fee shall be refunded if a written notice of withdrawal is received in the Board office before 5:00 p.m. on the last day for filing.
- b. One-half of the examination fee may be refunded to an applicant who makes a written request in which good cause is shown. Good cause includes permanent or partial disability, illness or other physical or mental condition, military service or financial hardship which prevented the applicant from appearing for the examination.
- c. The full fee shall be forfeited by the applicant who withdraws after the final date for filing applications or who fails to appear for the examination.

D. Re-examination: Pursuant to

1. ~~Examinations provided for in A.R.S. § 32-723(A): The applicant shall apply for all sections of the examination which have not been successfully completed. (For the purpose of application, until January 1, 1994, Practice I and Practice II are considered as two sections.)~~
2. ~~Pre examinations provided for in A.R.S. § 32-723(B)(2): Any candidate who has taken two pre examinations and has failed to pass may be required, before being accepted for further examinations, to furnish evidence satisfactory to the Board that the candidate has made further diligent study in the subjects tested by the pre examination.~~

E. Applications and fees will shall be accepted or rejected as provided by law but will not be held for future examinations.

R4-1-227. Examination grades; notice of grades

- A. ~~The grades earned in accounting, economics, business law, English composition and business mathematics in the pre-examination tests shall be averaged. An average of 60 percent shall be considered a passing grade for the pre-examination tests.~~
- B. ~~The Executive Director will advise a candidate by mail whether he has passed the pre-examination or all or any part of the certified public accountant examination.~~

R4-1-228. Papers Examination; Processing Grades and Papers

- A. Grade results of the examination shall be mailed to each examinee on the grade release date established by the American Institute of Certified Public Accountants.
- A. ~~Review of papers: Examination papers may be subsequently reviewed by an unsuccessful candidate only after grading has been reviewed and passed upon by the Board.~~
- B. Examination papers; grades
 1. A candidate may request a review of the candidate's examination answers by the American Institute of Certified Public Accountants by submitting a written request to the Board.
 2. A candidate may file an appeal to review examination questions that were answered incorrectly by submitting a written request to the Board.

BC. Examination papers; destruction: The Board may, in its discretion, destroy examination papers ~~one year~~ after the examination ~~time-frame set forth in A.R.S. § 32-723(E) has expired.~~

R4-1-229. Condition Credit

- A. Requirements. ~~On and after January 1, 1994, a~~ A candidate shall be required to pass all sections of the examination in order to qualify for a certificate. However, if, at a given sitting of the examination, a candidate passes 2 or more but not

all sections, the candidate shall be given condition credit for those sections passed and need not sit for re-examination in retake those sections provided:

1. The candidate wrote all sections of the examination at that sitting; and
2. The candidate attained a minimum grade of 50 on each section not passed at that sitting; and
3. The candidate passes the remaining sections of the examination within 6 consecutive examinations given after the 1 at which the 1st sections were passed; and
4. At each subsequent sitting at which the candidate seeks to pass any additional sections, the candidate writes all sections not yet passed; and
5. In order to receive credit for passing additional sections in any ~~such~~ subsequent sitting, the candidate attains a minimum grade of 50 on sections written but not passed on such sitting.

B. Transitional Period:

1. ~~Candidates who have been awarded condition credit under the prior examination structure for the Auditing section shall be awarded condition credit for the Auditing section under the current structure and shall retain such credit until they pass the remaining sections or until the conditional status of such credit expires, whichever occurs first.~~
2. ~~Candidates who have been awarded condition credit under the prior examination structure for the Business Law section shall be awarded condition credit for the Business Law and Professional Responsibilities section under the current structure and shall retain such credit until they pass the remaining sections or until the conditional status of such credit expires, whichever occurs first.~~
3. ~~Candidates who have been awarded condition credit under the prior examination structure for the Accounting Theory section shall be awarded condition credit for the Financial Accounting and Reporting Section under the current structure and shall retain such credit until they pass the remaining sections or until the conditional status of such credit expires, whichever occurs first.~~
4. ~~Candidates who have been awarded condition credit under the prior examination structure for the Accounting Practice section shall be awarded condition credit for the Accounting and Reporting section under the current examination structure and shall retain such credit until they pass the remaining sections or until the conditional status of such credit expires, whichever occurs first.~~

C.B. Transfer of condition credit.

A candidate shall be given credit for ~~any and all~~ sections of an examination passed in another state if ~~such~~ credit would have been given, under the then applicable requirements, if the candidate had taken the examination in this state. If a candidate transfers condition credit from another state, as provided in A.R.S. § 32-723(G), the candidate must shall pass the remaining sections of the examination within 3 years or within 6 consecutive examinations following the date the candidate received the condition credit in the other state.

R4-1-230. Non-conditioned candidates; evidence Candidates; Evidence of additional study Additional Study

- A. Any candidate who has taken 2 examinations and has failed to receive a condition shall be required, before being accepted for further examination, to furnish to the Board the following evidence of additional study:
 1. A candidate ~~will~~ shall be permitted to take examination number 3 based upon a statement of self-study.

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2. A candidate will shall be permitted to take the 4th and subsequent examinations based upon:
 - a. ~~Upon a~~ A statement of self-study providing the grades on the last examination demonstrate an overall improvement over the examination immediately prior, otherwise
 - b. ~~Upon proof~~ Proof of additional formal education.
- B. The statement of self-study required under this rule must shall be sworn to and signed by the applicant and notarized by a notary public, and must shall demonstrate a comprehensive program of self-study, described in detail as to time spent, subjects reviewed and textbooks used.
- C. Proof of additional formal education required under this rule means a certificate or transcript of grades from the institution, supervisor or teacher, demonstrating the adequate completion of extension courses, correspondence courses, regular day or night college courses, or other supervised courses of study dealing with accounting or related subjects. Documentation shall be provided to the Board to confirm current enrollment in 2 or more parts of a supervised study program for the American Institute Certified Public Accountants uniform certified public accountant examination.

ARTICLE 3. CERTIFICATION AND REGISTRATION PROVISIONS

R4-1-342. CPA Certificates; by Reciprocity

- A. Application: A person desiring applying for a certificate as a certified public accountant in Arizona on the basis of a certificate in good standing having been issued by another state, under pursuant to A.R.S. § 32-727, shall comply with the application requirements as set forth in R4-1-341.
- B. No Change.
- C. No Change.
- D. No Change.

R4-1-343. Accounting experience requirement Experience Requirement

- A. No Change.
 1. No Change.
 2. No Change.
 3. No Change.
 4. No Change.
- B. ~~Experience requirement. In order to fulfill the experience requirement in A.R.S. § 32-721(A)(5), the applicant shall have been employed in the full time practice of accounting, either before or after passing the examination for certified public accountant, for a minimum period of two years in one or a combination of the following:~~
 1. ~~Certified public accountant or public accountant office.~~
 2. ~~Private industry.~~
 3. ~~Government agency.~~

~~Such employment shall have exposed the applicant to and provided the applicant with experience in the practice of accounting, including examinations of financial statements and reporting thereon, or the applicant shall have completed one year of the experience requirement described above and hold a Master's or more advanced degree in accounting or business administration from a college or university recognized by the Board, provided that the academic transcript showing completion of the degree program shall include a minimum of 30 semester hours in accounting, business administration, economics and such related subjects as the Board shall determine to be appropriate, of which a minimum of 12 semester~~

~~hours credit shall be in graduate level accounting courses.~~

- ~~CB.~~ Graduate courses. In order for a course to qualify as a graduate level accounting course for purposes of meeting the experience requirement of A.R.S. § 32-721(5):

1. The course must shall be designated by the educational institution at which credit has been earned as a course that is normally open only to graduate students, and
2. The content of the course must be such that it requires as shall require a prerequisite, and mastery of the subject matter normally required for completion of an undergraduate degree, ~~whether or not the prerequisite is expressly stated.~~

- ~~DC.~~ Certificate of experience. The accounting experience required by ~~this rule~~ A.R.S. § 32-721(5) shall be confirmed by the submission of a completed application ~~form~~ package including 1 or more "certificates of experience" and ~~such~~ other information as the Board may require.

R4-1-344. Denial of certification Certification

An applicant who has been denied certification or registration by the Board shall be entitled to have a hearing before the Board or the ALJ in regard thereto.

1. Written application: The applicant must shall file, by ~~written application in writing, a request for a hearing,~~ within 15 days after receipt of the notice of denial.
2. Hearing notice: Notice of ~~such the~~ hearing shall be given to the applicant by the Board in the manner prescribed by R4-1-114 ~~of the Board rules.~~
3. Conduction of hearing: ~~Such The~~ hearing shall be conducted in accordance with R4-1-114 and R4-1-117 ~~of the Board rules for contested cases.~~
4. Burden of proof: At ~~such the~~ hearing, the applicant shall be the moving party and shall have the burden of proof.
5. Matters limited: At ~~such the~~ hearing, matters shall be limited to those originally presented to the Board.

R4-1-345. Registration; ~~certificate renewal~~ Certificate Renewal

- A. Initial registration: A registration fee is due when a new certificate is issued or when a new ~~partnership or professional corporation firm~~ is registered by the Board. The initial registration fee is prorated for registration periods of less than 2 years.
- B. Renewal registration: All registrants, individuals and firms, shall register biennially by filing with the Board the appropriate completed registration form specified in A.A.C. R4-1-118 and pay the registration fee prescribed by this Section. Registration shall be made during the month of the anniversary of the registrant's birth or during the month of the anniversary of the initial registration with the Board in the case of a ~~partnership or professional corporation firm~~. Registrations must shall be received in the Board office by 5:00 P.M. on the last business day of the month. Registrations shall be deemed filed on the date received in the Board Office. It is the sole responsibility of the registrant to complete the renewal registration requirements at the following times:
 1. Individual registrants: All individual registrants shall register at the following times:
 - a. Registrants born in even-numbered years shall register during the month of their birth date in each even-numbered year.
 - b. Registrants born in odd-numbered years shall register during the month of their birth date in each odd-numbered year.

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2. ~~Partnerships and professional corporations~~ Firms: All firms shall register at the following times:
- a. Firms which initially registered with the Board in even-numbered years shall register during the month of their initial registration in each even-numbered year.
 - b. Firms which initially registered with the Board in odd-numbered years shall register during the month of their initial registration in each odd-numbered year.
- C. Registration fees for individuals: The biennial registration fee for each certified public accountant and each public accountant is \$150.00 per registration period. The registration fee will shall be prorated by month for initial registration periods of less than 2 years. ~~If a suspension under this subsection continues for more than six months, an individual shall return the registration certificate to the Board.~~
- D. Registration fees for firms: The biennial registration for each certified public accountant or public accountant ~~partnership or professional corporation~~ firm is \$150.00 per registration period.
- E. Failure to register and pay a registration fee as provided for in this Section shall result in the suspension of the registrant's registration. A suspension under this Section shall be vacated ~~only after when~~ the registrant has paid all past due registration fees, a \$25.00 late fee plus \$25.00 for each full year the registrant has failed to register, total payment not to exceed \$350.00. ~~If a suspension under this subsection continues for more than 6 months, an individual shall return the registration certificate to the Board. If a suspension under this subsection continues for more than 12 months, an individual's certificate shall be deemed expired pursuant to A.R.S. § 32-741(C).~~
- F. Registrants who have been granted inactive status are prohibited from providing accounting services, for a fee or other form of compensation, which includes, but is not limited to, recording and summarizing of financial transactions, analyzing and verifying financial information, reporting of financial results to an employer, clients or other parties, and the rendering of tax and management advisory services to an employer, clients or other parties during the period of time in which the registrant's CPA certificate is inactive.
- R4-1-346. Notice of Change of Address**
- A. ~~Notice shall be given~~ Each registrant shall give notice to the Board, within 30 days, of any business, mailing or residential change of address ~~including the address of any office opened for the practice of public accounting in this state by filing a revised Biennial Registration Form. Notice shall be similarly given of the closing of any such offices.~~
 - B. Notice ~~Each registrant shall give notice~~ of the opening of any new or additional office, or the closing of any existing office. Notice shall be given to the Board by filing a revised Biennial Registration Form.
- ARTICLE 4. REGULATION PROVISIONS**
- R4-1-453. Continuing Professional Education Requirement**
- A. No Change.
 - B. Measurement Standards. The following standards shall be used to measure the hours of credit ~~to be given~~ for CPE programs completed by an individual applicant.
 1. A class hour shall ~~at a minimum~~ consist of a minimum of 50 continuous minutes of instruction. CPE credit shall be given for whole class-hours only. One CPE credit hour shall be given for each class- hour of instruction.
2. Courses taken at colleges and universities described in R4-1-231 shall apply toward the CPE requirement as follows:
 - a. Each semester system credit hour shall equal 15 CPE credit hours,
 - b. Each quarter system credit hour shall equal 10 CPE credit hours, and
 - c. Each noncredit class hour shall equal 1 CPE credit hour.
 3. Each correspondence program hour shall equal 1 CPE credit hour.
 4. Acting as a lecturer or discussion leader in a CPE program, including college courses, may be counted as CPE credit. The amount of credit shall be determined on the basis of actual presentation hours, plus up to 1 additional hour of actual preparation time for each hour of presentation. Only as much preparation time as is actually spent for a presentation may be claimed. Total credit earned under this subsection for service as a lecturer or discussion leader including preparation time shall not exceed 40 credit hours of the renewal period's requirement, and Credit shall be limited to only 1 presentation of any seminar or course with no credit for repeat teaching of that course.
 5. A maximum of 20 hours of CPE credit may be earned during each renewal period by writing and publishing articles or books, ~~during that renewal period,~~ that contribute to the accounting profession.
 - a. Credit may be earned for writing accounting material not used in conjunction with a seminar. Such The material must shall address an audience a constituency of certified public accountants, be at least 3,000 words in length, and be published by a recognized 3rd-party publisher of accounting material or a sponsor.
 - b. For each 3,000 words of original material written, the author(s) may earn 2 credit hours. Multiple authors may share credit for material written.
 6. A combined maximum of 40 hours of CPE credit may be earned under subsections (B)(4) and (5) above during each renewal period.
 7. A maximum of 20 hours of CPE may be earned during each renewal period by completing introductory computer related courses. Computer related courses may qualify as management advisory services pursuant to subsection (D), provided they meet the provisions of subsection (C)(1).
- C. No Change.
1. No Change.
 - a. No Change.
 - b. No Change.
 - c. No Change.
 - d. No Change.
 2. No Change.
- D. Hour Requirement. Hour requirements shall be completed as specified under subsections (1) through (9) below. A minimum of 50% of any required credit hours shall be in the subject areas of accounting, auditing, taxation, business law, or management advisory services, including the following credit hours required under subsection (1) through (9).
1. Applicants in public practice whose last renewal period was for 2 years shall complete 80 credit hours of CPE

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- during the 2-year period immediately preceding biennial registration renewal.
2. Applicants for registration renewal who have been registered certified less than 2 years shall complete 10 credit hours of CPE for every 3 months registered before registration renewal.
 3. Registrants who neither reside nor practice accounting in Arizona are required to fulfill Arizona's CPE requirement before renewing their registrations.
 4. Registrants not engaged in public accounting practice, who do not perform public accounting services for compensation, shall complete 60 hours of CPE during the 2-year period immediately preceding registration renewal.
 5. Registrants re-entering entering public accounting practice, for any length of time, shall notify the Board upon reentry. The registrant and shall complete a total of 80 credit hours of CPE in the 2-year before practicing public accounting period prior to reentry CPE hours taken to satisfy the registrant's current biennial registration may be used toward meeting this requirement. The additional CPE hours submitted in support of this requirement may not be used to meet the CPE credit hour requirement for the next biennial registration. Once re-entered, the registrant shall complete 10 credit hours of CPE for each 3-month period from the date of reentry to the next renewal date. Once entered, the registrant shall complete the applicable hours required for registration.
 6. An individual A registrant who is retired at age 60 or over and does not perform any accounting services, whether or not participating in the profits of a public accounting entity, does not need to complete any CPE for registration renewal.
 7. Applicants for reinstatement following the suspension of a certificate pursuant to A.R.S. § 32-741(C) shall complete any deficiency in CPE not to exceed 80 credit hours. CPE hours utilized to meet the reinstatement requirement may not be used to meet the CPE credit hour requirement for the next biennial registration. An applicant whose suspension has extended beyond the next biennial registration period shall complete the deficiency which resulted in the suspension as well as the 80 credit hours required for re-registration.
 8. Applicants for reinstatement following the suspension of a certificate, other than that described in subsection (D)(7), shall complete the applicable credit hour requirement for registration. The CPE hours utilized to meet the reinstatement requirement may not be used to meet the CPE credit hour requirement for the next biennial registration. For purposes of this subsection, an applicant whose suspension was for reasons other than non registration and whose suspension has extended beyond 2 registration periods (4 years) shall not be required to report more than 160 hours.

§ 2. The Board may grant a partial or complete exemption from the CPE requirement to an individual registrant who makes a written request in which good cause is shown. Good cause includes permanent or partial disability, illness or other physical or mental condition, military service, or financial hardship which prevented the individual registrant from completing the CPE requirement.

910. CPE credit hours used as qualifying hours for a registration period may not be used as qualifying credit hours for subsequent registration periods. Total CPE credit hours completed during the renewal period shall

be reported for Board approval. Credit hours in excess of the number required for the current registration shall not be carried forward to a subsequent registration period.

- E. No Change.
 1. No Change.
 2. No Change.
 3. No Change.
 4. No Change.
 5. No Change.
- F. Carryover disallowed. Total CPE credit hours completed during the renewal period shall be reported for Board approval. Credit hours in excess of the number required for the current registration shall not be carried forward to a subsequent registration period.
- F. CPE Record Retention. Applicants shall maintain for 3 years and provide the Board upon request the following documents: course outline, proof of attendance or participation, and written proof of completion.
- G. Continuing professional education committee. The committee shall make recommendations to the Board concerning the following:
 1. CPE programs,
 2. Individual registrant's satisfaction of CPE requirement,
 3. Applications for exemptions from CPE requirements under A.R.S. § 32-730(C).

R4-1-454. Periodic re-examination

The Board shall grant exemption from the continuing professional education requirement for one registration period for registrants who successfully complete a periodic re-examination, which shall be conducted by the Board as follows:

1. Persons desiring to take the re-examination shall apply on a re-examination application provided by the Board and obtainable from its office. This application shall set forth areas of accounting practice—auditing, taxation, financial reports and disclosures and management advisory services. The registrant shall specify the areas of accountancy in which he practices, using only the accounting categories described on the application.
2. Re-examinations are held in May and November of each year and all applications to take re-examinations must be filed during the period January 1 through the month of February for the next May re-examination and during the period July 1 through August 31 for the next November re-examination. For purposes of this Section, applications shall be deemed filed on the date received by the Board Office. Applications received after 5:00 P.M. on the last day for filing shall be deemed late. If the last day for filing falls on Saturday, Sunday or a legal holiday, the application must be received in the Board Office by 5:00 P.M. on the first working day thereafter. Late applications will not be accepted.
3. Each applicant desiring to sit for the re-examination shall pay a non-refundable re-examination fee of four hundred dollars (\$400.00), pursuant to A.R.S. § 32-730.01, to cover administrative costs in connection with the re-examination. Each registrant who takes the re-examination shall be examined in the categories of accountancy he designated in the re-examination application.
4. The Board may make use of all or any part of the uniform certified public accountants' examination and advisory grading service, or both, as it deems appropriate. A registrant must obtain a grade of 75 percent or more in each category of accountancy in which he is tested to

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satisfy the periodic re-examination requirement. Persons failing to pass the re-examination shall meet the continuing professional education requirements set forth in rule R4-1-453.

5. ~~The Executive Director will advise the registrant by mail whether he has successfully completed the re-examination. Re-examination papers must be reviewed by the unsuccessful candidate only after grading has been passed upon by the Board.~~

R4-1-455. Rules of Professional Conduct: Independence, Integrity, and Objectivity

A. No Change.

1. No Change.
 - a. No Change.
 - b. No Change.
 - c. No Change.
 - i. No Change.
 - ii. No Change.
 - iii. No Change.
2. No Change.
 - a. No Change.
 - b. No Change.
3. No Change.

B. Integrity and objectivity: Certified public accountants or public accountants shall not knowingly or recklessly misrepresent facts when engaged in the practice of public accounting, including the rendering of tax and management advisory services. In tax practices, certified public accountants or public accountants may resolve doubt in favor of their client as long as there is reasonable support of for their position.

1. **Contingent fees:** A contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. Solely for purposes of this rule, the fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.
 - a. A certified public accountant, public accountant or firm engaged in the public practice of public accounting shall not for a contingent fee for any client:
 - i. Perform an audit or review of a financial statement; or
 - ii. Prepare a compilation of a financial statement when the certified public accountant or public accountant or the firm expects, or reasonably should expect, that a 3rd party will use the financial statement and the certified public accountant or public accountant or the firm's compilation report does not disclose a lack of independence; or
 - iii. Perform an examination of prospective financial information; or
 - iv. Prepare an original or amended tax return or a claim for a tax refund.
 - b. The prohibition in subsection (B)(1)(a) above applies during the period in which the certified public accountant or public accountant or the firm is engaged to perform any of the services listed above in subsection (B)(1)(a) and the period covered by any historical financial statements involved in the listed services.

2. Commissions and referral fees:

- a. A commission is a fee calculated as a percentage of the total sale or service.
 - b. A referral fee is a fee paid in exchange for producing a purchase of goods or services.
 - c. **Prohibited commissions:** A certified public accountant or public accountant or firm engaged in public the practice of public accounting shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission when the certified public accountant or public accountant or the firm also performs any of the following for that client:
 - i. An audit or review of a financial statement; or
 - ii. A compilation of a financial statement when the certified public accountant or public accountant or the firm expects, or reasonably might expect, that a 3rd party will use the financial statement and the certified public accountant or public accountant or the firm's compilation report does not disclose a lack of independence; or
 - iii. An examination of prospective financial information.
 - d. This prohibition applies during the period in which the certified public accountant or public accountant or the firm is engaged to perform any of the services listed above in subsection (B)(2)(c) and the period covered by any historical financial statements involved in the listed services.
 - e. **Disclosure of permitted commissions:** A certified public accountant or public accountant or firm engaged in the public practice of public accounting who is not prohibited by this rule from performing services for or receiving a commission and who is paid or expects to be paid a commission shall make a written disclosure in advance of accepting the engagement. This disclosure shall be made to any person or entity to whom the certified public accountant or public accountant or the firm recommends or refers a product or service to which the commission relates and shall include the dollar amount or percentage to be received.
 - f. **Disclosure of referral fees:** Any certified public accountant or public accountant or firm that accepts a referral fee for recommending or referring any product or service to any person or entity or that pays a referral fee to obtain a client shall disclose to the client, in writing, the acceptance or payment of the referral fee and its amount.
3. **Incompatible occupations:** Certified public accountants or public accountants who are engaged in the practice of public accounting shall not concurrently engage in any business or occupation which impairs their objectivity in rendering professional services.

R4-1-455.01. Rules of Professional Conduct: Competence and Technical Standards

- A. No Change.
- B. No Change.
- C. No Change.
- D. Accounting and review standards: Certified public accountants, or public accountants or firms shall not permit their names to be associated with unaudited financial statements or

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other unaudited financial information of a non-public entity in such a manner as to which may imply that they are acting as independent accountants unless they have complied with all applicable standards for accounting and review services.

- E. Forecasts and projections: Certified public accountants, or public accountants or firms shall not permit their names to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that the certified public accountants, or public accountants or firms vouch for the achievability of the forecast or projection.
- F. In expressing an opinion on representations, in financial statements which they have examined, certified public accountants, or public accountants or firms shall be held guilty of an act in violation of A.R.S. § 32-741(A)(4) if:
1. They fail to disclose a material fact known to them which is necessary to make makes the financial statements not misleading; or
 2. They fail to report any material misstatement known to them to appear in the financial statement; or
 3. They are materially negligent in the conduct of their examination or in making their report thereon; or
 4. They fail to acquire sufficient information to warrant expression of an opinion, or their exceptions are sufficiently material to negate the expression of an opinion; or
 5. They fail to direct attention to any material departure from generally accepted accounting principles or to disclose any material omission of generally accepted auditing procedure applicable in the circumstances.
- The provisions of this subsection are not intended to be all-inclusive or to limit the provisions under A.R.S. § 32-741(A)(4).
- G. Tax practice standards: Certified public accountants, or public accountants or firms shall exercise due diligence in the conduct of their tax practices, and the current standards set forth in the American Institute of Certified Public Accountants (AICPA) Statements on Responsibilities in Tax Practice (1988 Revision) shall presumptively represent due diligence.
- H. Standards: The application of such standards such as "generally accepted accounting principles," "generally accepted auditing standards," and "applicable standards for accounting and review services" by certified public accountants, or public accountants or firms is to be made to the specific engagement or problem at hand by the exercise of professional judgment in the context of the literature of the accounting profession. Official statements of the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, and other specialized bodies dealing with accounting and auditing matters are among the sources and interpretation of such the standards. Those who take positions that depart from such the official statements must shall be prepared to justify them.

R4-1-455.02. Rules of Professional Conduct: Responsibility to Clients

- A. Confidential client information: Certified public accountants, or public accountants or firms shall not disclose any confidential information obtained in the course of a professional engagement except with the consent of the client. This rule shall not be construed to:
1. Relieve certified public accountants, or public accountants or firms of their obligation under R4-1-455.01(B) and (C),
 2. Affect in any way their compliance with a validly issued subpoena or summons enforceable by order of a court,

3. Prohibit review of certified public accountants', or public accountants' or firms' professional practices as a part of any peer or quality review pursuant to Board decision or authority, or
 4. Preclude certified public accountants, or public accountants or firms from responding to any inquiry made by the Board under state statutes.
- B. Records disposition responsibility: Certified public accountants, or public accountants or firms shall furnish to their client, or former client, upon request, within a reasonable time after original issuance:
1. A copy of any tax returns prepared for such the client.
 2. A copy of any reports, or other documents, that were previously issued to such the client.
 3. Any accounting or other records belonging to the client which they or their firm may have had occasion to remove from the client's premises, or to receive for the client's account, but this shall not preclude them from making copies of such the documents when they form the basis for work done by them (or their firm).

R4-1-455.03. Rules of Professional Conduct: Other Responsibilities and Practices

- A. Discreditable acts: Certified public accountants, or public accountants or firms shall not commit any act that reflects adversely on their fitness to engage in the practice of public accounting, which shall include without limitation:
1. Violation of any of the provisions of R4-1-455 through R4-1-455.04 (Rules of Professional Conduct).
 2. Violation of a fiduciary duty or trust relationship with respect to any person.
 3. Violation of any of the provisions of Article 3, Chapter 6, Title 32, Arizona Revised Statutes, or any regulation or rule promulgated thereunder.
- B. Advertising practices: Certified public accountants, or public accountants or firms shall be deemed to have engaged in dishonest or fraudulent conduct in the practice of public accounting in violation of A.R.S. § 32-741(A)(4) and to have violated the high standards of integrity and dignity in public accounting where, in connection with the communication or advertising of public accounting services through any media, if those accountants willfully engage in any of the following conduct:
1. Employ any device, scheme or artifice to defraud.
 2. Make any untrue statement of material fact or omit to state any material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.
 3. Engage in any advertising which would operate as a fraud or deceit.
 4. Violate A.R.S. § 44-1522 and a court finds a willful violation thereof the violation willful.
 5. Are convicted of a violation of A.R.S. § 44-1481 concerning fraudulent or misleading practices in the advertising of public accounting services. Engage in fraudulent or misleading practices in the advertising of public accounting services which leads to a conviction pursuant to A.R.S. § 44-1481.
 6. Are convicted of a violation of any other state or federal law concerning fraudulent practices in the advertising of public accounting services. Engage in fraudulent practices in the advertising of public accounting services which leads to a conviction for a violation of any other state or federal law.
- C. Solicitation practices: Certified public accountants, or public accountants or firms shall be deemed to have engaged in dis-

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honest or fraudulent conduct in the practice of public accounting in violation of A.R.S. § 32-741(A)(4) and to have violated the high standards of integrity and dignity in public accounting where, in connection with the direct or indirect personal solicitation of public accounting services, if those accountants willfully engage in any of the following conduct:

1. Violate any of the provisions of R4-1-455.03(B) (Advertising Practices), which provisions are incorporated by reference in this subsection (C) as constituting personal solicitation violations.
2. Engage in direct or indirect personal solicitation through the use of coercion, duress, undue influence, compulsion or intimidation practices.

D. Form of practice and name

1. Certified public accountants or public accountants may practice public accounting, whether as owners or employees, only in the form of proprietorships, partnerships or professional corporations a firm as defined in A.R.S. § 32-701.01(6).

2. ~~Certified public accountants or public accountants shall not practice under a firm name which is misleading~~ No certified public accountant or public accountant shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers or shareholders of the firm, or about any other matter. A firm name or designation shall not include words such as "& Company", "& Associate(s)", or "& Consultant(s)" unless the terms refer to additional full-time CPA(s) that are not otherwise mentioned in the firm name.

E. No Change.

F. No Change.

R4-1-455.04. Rules of Professional Conduct: Interpretations
Interpretations of the Code of Professional Conduct adopted by the American Institute of Certified Public Accountants (AICPA) shall be persuasive but not conclusive in the Board's interpretations of R4-1-455 through R4-1-455.04 ~~R4-1-455.03~~.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-6-604. | Amend |
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-3253
Implementing statute: A.R.S. §§ 32-3253, 32-3311, and 32-3313
 3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: George Mehnert, Executive Director
Address: Board of Behavioral Health Examiners
1400 West Washington, Suite 350
Phoenix, Arizona 85007
Telephone: (602) 542-1884
Fax: (602) 542-1830
 4. **An explanation of the rule, including the agency's reasons for initiating the rule:**
This rule is updated for clarity and correction of an error promulgated in a previous rulemaking. The number of admissible hours for group supervision is changed from 50 hours to 100 hours.
 5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
 6. **The preliminary summary of the economic, small business, and consumer impact:**
The original intent of this Section was to clarify statute requirements for obtaining a Marriage and Family Therapy certification. A.R.S. § 32-3311(C) requires that *one hundred hours of individual supervision be applied toward the combination of two hundred hours of group or individual supervision in the provision of marriage and family therapy*. This requirement leaves 100 hours remaining in the 200-hour combination which must be applied toward group supervision. The current rule requiring that 50-hours of group supervision be applied toward the total 200 required hours for direct supervision is in error. This rulemaking changes the number of admissible hours for group supervision from 50 hours to 100 hours.

A. *Estimated Costs and Benefits to the Board of Behavioral Health Examiners.*

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The implementation of this rulemaking will clarify the requirements for Marriage and Family Therapy certification. By ensuring understanding of persons reading this rule, there is a potential for cost savings by reduction in time by personnel attempting to answer questions pertaining to perception. No additional costs will be incurred by the Board.

B. *Estimated Costs and Benefits to Political Subdivisions.*

Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

C. *Businesses Directly Affected By the Rulemaking.*

By changing the 50 hours of group supervision to 100 hours it appears to afford an applicant an opportunity to obtain more group supervision hours towards the 200 required hours of group or direct supervision. Increasing the number of hours required for group supervision should allow more people to be certified as Marriage and Family Therapists and shorten the time-frame for certification. However, this change is simply correcting a rulemaking error that is verified by statute and provides an applicant with clear and understandable requirements of the program.

D. *Estimated Costs and Benefits to Private and Public Employment.*

Private and public employment are not directly affected by the implementation and enforcement of this rulemaking.

E. *Estimated Costs and Benefits to Consumers and the Public.*

Changing the number of group supervision required hours will not affect consumers or the public because the statute requirement that 100 hours of direct supervision be applied toward the required 200 hours of group or direct supervision assumes that 100 hours remains to be applied toward group supervision.

F. *Estimated Costs and Benefits to State Revenues.*

State revenues are not directly affected by the implementation and enforcement of this rulemaking.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: George Mehnert
Address: Board of Behavioral Health Examiners
1400 West Washington, Suite 350
Phoenix, Arizona 85007
Telephone: (602) 542-1884
Fax: (602) 542-1830

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: September 17, 1998
Time: 9:00 a.m.
Location: Board of Behavioral Health Examiners
1400 West Washington, Suite 350
Phoenix, Arizona 85007
Nature: Public Hearing

Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 4 p.m., September 17, 1998. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Board's Executive Director, George Mehnert at (602) 542-1884 (voice) or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None.

10. Incorporations by reference and their location in the rules:
None.

11. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

ARTICLE 6. MARRIAGE AND FAMILY THERAPY

Section

R4-6-604. Professional Supervision for Marriage and Family Therapy Certification

ARTICLE 6. MARRIAGE AND FAMILY THERAPY

R4-6-604. Professional Supervision for Marriage and Family Therapy Certification

An applicant for certification as a Marriage and Family Therapist shall receive a ~~minimum of at least~~ 200 hours of direct supervision ~~on~~ of 1,000 client-contact hours during the 2 years of professionally supervised work experience ~~refereneed~~ prescribed in R4-6-603.

1. An applicant ~~shall be permitted to~~ may apply a ~~maximum of no more than~~ 30 hours of direct supervision and 300 client-contact hours obtained during the internship ~~refereneed~~ prescribed in R4-6-601(B) towards the supervision requirement.
2. An applicant ~~shall be permitted to~~ may meet the direct supervision requirement by receiving both individual and group supervision. Group supervision shall be consist of no more than ~~50~~ 100 of the 200 required hours of direct supervision during the 2 years of professionally supervised work experience.

3. Supervision of an applicant ~~for certification as a Marriage and Family Therapist~~ shall be provided by a Certified Marriage and Family Therapist.
4. An applicant who completed the professional supervision requirement before December 31, 1991, may have been supervised by an individual who was a behavioral health professional licensed or certified by a state or national professional organization acceptable to the Marriage and Family Therapy Credentialing Committee.
5. An applicant may make a written request to the Marriage and Family Therapy Credentialing Committee for an exemption from the requirement of subsection ~~(C)~~ (3). ~~The Marriage and Family Therapy Credentialing Committee shall review the request for exemption to determine whether the proposed supervisor has the necessary education, training, and experience to provide the supervision acceptable for a Marriage and Family Therapist certification. If the proposed supervisor has the necessary education, training, and experience is qualified,~~ the Marriage and Family Therapy Credentialing Committee shall grant the request for an exemption.