

7/12/93

STATEMENT OF NEEDS AND REASONABLENESS

(Note: the State Board of Accountancy believes that all these proposed rule changes are non-controversial, in that they are either technical corrections to the rules which were adopted earlier this year and effective March 27, 1993; or are needed to conform to the changes in the Uniform CPA Exam - which we administer to candidates in May and November.)

1100.0900

This is a technical change (which is made throughout these rules) which reflects the fact that, starting with the May 1994 Uniform CPA examination, the test will be changed from the current five sections to four. In making that change the AICPA (American Institute of Certified Public Accountants), the organization that constructs and supplies the exam to State Boards of Accountancy, recommends using the term "section" to describe the four parts of the test. To maintain consistency with the AICPA this change is necessary. The old term, "subject" is now inaccurate in that the former five subjects tested are now reconfigured under the new exam as four sections.

"Section" is a more accurate term than "subjects" and it is therefore reasonable to use it.

1100.1300 Subp. 6

Without explicitly stating it, it has been the Board's policy to require all first time applicants to take all five parts of the current exam. It is implicit that you must take

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all five parts because of the way the Uniform CPA exam is graded and the conditioning language in the current rules. This change would simply provide that clarification in the rules and does not reflect any change in policy or procedure. It is necessary to give better notice and it is reasonable because it is just a statement of current policy.

1100.1300 Subp. 9

(See 1100.0900)

1100.1400 Subps. 1 - 5

(See 1100.0900)

1100.1500

The same rationale as in 1000.0900 applies to the change in this rule. "Sections" is the recommended term to describe the four different "parts" of the new exam.

1100.2110

In changing this rule earlier this year, "self-employed" CPA's and LPA's were left out of this list of people who need licenses. This was simply a mistake and it is necessary to correct it to effectuate the intent of the statute and is reasonable because it adds self-employed persons to the Board's licensing rules.

In promulgating the new rules, the word "accountant" should have been used instead of "accountants" since it is an adjective to describe the two nouns "corporations" and "partnerships".

This is simply a technical change. It is necessary to correct a grammatical error and reasonable as it is the most accurate way to make the correction.

1100.3000

(See 1100.3100)

1100.3100

In trying to correct a problem the previous rules created (in regard to the fee for the application for initial corporation license) we discovered that two different terms were being used to describe what a corporation had to do for initial licensure. In some places the term "application for initial corporation license" was used and in some places the term "first annual report" was used. There is no such thing as a "first annual report" or "an annual report", to the best of the knowledge of the Board staff. There is, however, an "application for initial corporation license" that is required. Therefore, all references to the term "first annual report" were deleted in favor of the term "application for an initial corporation license". This is necessary to eliminate a requirement which serves no purpose and is reasonable in order to clear up any confusion over use of the terms by applicants for licensure as a corporation.

It is necessary to add "Filed with the Board" to clarify where the form needs to be filed. It is reasonable because one of the goals of the previous rule changes was to get all of the fees into one section and not have them spread through out the rules.

A couple of mistakes were made in that effort:

The "\$100" fee is struck since it was moved in the previous rule changes to the fees section (1100.3600) and is therefore not necessary in this section. It is reasonable because it consolidates the Board's fees into one section, to make them easier to understand.

It is necessary to move "Payable to the 'Minnesota Board of Accountancy'" into Subp. 1 of the fees section (1100.3600) because this section governs fees. It is reasonable because it lets persons paying fees know who to make payment to such that the Department of Commerce and Revenue properly handle the funds.

The words "as provided in part 1100.3600, subpart 1, item G" are added to reference the appropriate part of the fee section where the "\$100 fee" can actually be found. This is both reasonable and necessary.

1100.3200

The title and first two sentences are changed to recognize the fact that there is no "annual report". (see 1100.3100) The new language is consistent with the language in 1100.2600 which

is parallel licensing language for partnerships. There is no change in effect, the rule is simply being revised to be consistent with similar sections. It is reasonable because the same language in 1100.2600 has been successfully used.

It is necessary to change the reference to subpart 1 to subpart 2 because all renewal fees are in subpart 2, not subpart 1. It is reasonable because it makes the reference clearer and easier to follow.

1100.3600 Subpart 1

(See 1100.3100) This is just the addition of the moved language.

1100.3600 Subpart 1 B

In the first sentence "subjects" are again changed to "sections".
(see 1100.0900)

The sentence "Accounting Practice is considered to be two subjects" is struck because under the new exam, that section of the exam will not be called Accounting Practice and will no longer be considered two subjects, it is combined into one.

This change is necessary to bring our rules into conformity with the new exam format. It is reasonable because it accurately reflects the correct name of the section of the exam.

The sentence "Part 1100.1400, subpart 4, provides that applicants shall apply for reexamination in all failed subjects" is struck

because there is no need to have this phrase in this section since it is already specifically stated in part 1100.1400, subp. 4. It is reasonable because it removes redundancy from the rules.

1100.3600 Subpart 1. G

The words "and first annual report" are struck out since there is no first annual report required and this is the fee section of the rules. (see 1100.3200)

1100.3600 Subpart 2. D

In the previous rules, the attempt was made to put all the fees into one section (1100.3600). The reference "in addition to the \$25 annual reporting fee in part 1100.3200" needs to be struck out because the previous rules removed the "\$25 annual reporting fee" from part 1100.3200, so it is not reasonable to reference something that has been previously deleted.

The "\$10 processing fee" is struck out and replaced by a straight fee of "\$35". This is the combination of the "\$25 annual reporting fee" which was deleted from 1100.3200 in the previous rule changes, and the "\$10 processing fee" which we are proposing to delete. The "\$35" annual license renewal fee for corporations is therefore not a new fee, it is simply (under the old rules) the \$25 plus \$10. **THIS IS NOT A FEE INCREASE!** The change is necessary in order to correct the mistake made in the previous rule changes and get the \$35

corporate annual renewal fee back to the \$35 it had been. With this change D will become parallel to item C, the \$35 fee for partnerships. There is no need to designate a part of the fee as the "annual reporting fee" and part as a "processing fee". This is not done anywhere else in the rules and is unnecessary. The technical change to correct this error is therefore both reasonable and very necessary (and needs to be accomplished before license renewals are sent out to licensees in early November).

RULE CHANGES - IMPACT ON SMALL BUSINESS

The Board notes below how the five suggested methods listed in section 14.115, subdivision 2, for reducing the impact of the rules on small businesses should be applied to the proposed rules. The five suggested methods enumerated in subdivision 2 are as follows:

- (a) The establishment of less stringent compliance or reporting requirements for small businesses;
- (b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) The consolidation or simplification of compliance or reporting requirements for small businesses;

- (d) The establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
- (e) The exemption of small businesses from any or all requirements of the rule.

The feasibility of implementing each of the five suggested methods and whether implementing any of the five methods would be consistent with the statutory objectives that are the basis for this rulemaking are considered below.

1. It would not be feasible to incorporate any of the five suggested methods into these proposed rules.

Methods (a) to (c) relate to lessening compliance or reporting requirements for small businesses either by establishing less stringent requirements, establishing less stringent schedules or deadlines for compliance with the requirements, or consolidating or simplifying the requirements. The Board finds that it would be unworkable to lessen the requirements for those licensees who practice in a solo or practice consisting of fewer than 50 employees, since that would include, at a minimum, the vast majority of all licensees. Method (d) suggests replacing design or operational standards with performance standards for small businesses. The Board's rules do not propose design or operational standards for businesses and therefore there is no reason to implement performance standards for small businesses

as a replacement for design or operational standards that do not exist. Finally method (e) suggests exempting small businesses from any or all requirements of the rules. The application of this provision would exempt a large percentage of licensees from the purview of the rules, which would not make sense.

2. Reducing the impact of the proposed amendments on small businesses would undermine the objectives of the Minnesota licensing law.

Pursuant to Minn. Stat. Section 326.165, et seq., the Board was created for the purpose of establishing requirements for licensure and adopting standards for disciplinary action to govern the practices or behavior of all licensees. Pursuant to Minn. Stat. Section 326.18 the Board is specifically mandated to promulgate rules as may be necessary in order to carry out the Board's purpose. Given these statutory mandates, it is the Board's duty to establish licensure qualifications and disciplinary standards which apply to and govern all applicants and licensees regardless of the nature of their practice.

As stated above, it is the Board's position that the proposed rules will not affect small businesses and certainly do not have the potential for imposing a greater impact on licensees in a solo or small practice than on those practices large enough to remove them from the definition of small business. It has also been explained above that the Board considers it unfeasible to implement any of the five suggested methods enumerated in subdivision 2 of the small business statute. Nonetheless, to the extent it may be feasible to

implement any of the suggested methods for lessening the impact on small businesses, the Board believes it would be unwise and contrary to the purposes to be served by these rules for the Board to exempt one group of licensees - indeed, the vast majority of licensees - from the requirements of these rules. Similarly, the Board believes it would be unwise and contrary to its statutory mandate for the Board to adopt one set of standards for those licensees who work in a large business setting and adopt another, less stringent, set of standards to be applied to those licenses who practice in a solo or small practice. It is the Board's view that these rules must apply equally to all licensees if the public whom they serve is to be adequately protected.