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THE MINNESOTA BOARD OF ACCOUNTANCY

November 18, 2013

Legislative Reference Library
645 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: In The Matter of the Proposed Rules of the Board of Accountancy Governing
Licensure Renewal, Continuing Professional Education, Firm Permits and
Housekeeping Updates; Revisor's ID Number R-04183

Dear Librarian:

The Minnesota Board of Accountancy intends to adopt rules governing licensure, renewal, continuing professional education, firm permits and housekeeping updates. We plan to publish a Dual Notice of Intent to Adopt Rules without a Public Hearing in the December 9, 2013 State Register.

The Board has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Board is sending the Library an electronic copy of the Statement of Need and Reasonableness prior to mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me at 651-757-1511.

Yours very truly,

A handwritten signature in cursive script that reads "Andrea Barker".

Andrea Barker
Assistant Executive Director

Enclosure: Statement of Need and Reasonableness

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Minnesota Board of Accountancy

STATEMENT OF NEED AND REASONABLENESS

Proposed Amendment to Rules Governing Certificate Renewal, Continuing Professional Education, Firm Names and Housekeeping Updates, Minnesota Rules, 1105.0100, 1105.0500, 1105.0700, 1105.1500, 1105.1600, 1105.1650, 1105.2100, 1105.2400, 1105.2500, 1105.2560, 1105.2600, 1105.3000, 1105.3100, 1105.3200, 1105.3300, 1105.3350, 1105.3700, 1105.3800, 1105.3900, 1105.4000, 1105.4100, 1105.4300, 1105.4500, 1105.5000, 1105.5100, 1105.5400, 1105.6300, 1105.6550, 1105.6600, 1105.7000, 1105.7100, 1105.7200, 1105.7450

Revisor's ID Number R-04183

INTRODUCTION

The nature of the proposed rules of the Board of Accountancy ("Board") is to amend its current rules that generally pertain to all licensees and firms. The proposed rules will update the certificate renewal, continuing professional education and firm name requirements. The proposed rules also include amendments that are "housekeeping" in nature. These housekeeping modifications do not make any substantive changes to requirements for licensure or renewal, but rather remove obsolete or duplicative language and rewrite sections for clarity and uniformity.

Changes to the certificate renewal requirements are intended to reflect the statutory changes adopted by the Legislature during the 2013 Session. The Legislature amended the statute to require license renewal every year rather than every three years.

A large majority of the changes to the continuing professional education requirements are intended to make them easier for licensees to understand and comply with. The overall requirements are not changing; however, the confusing language has been modified and rewritten and definitions have been added for clarity.

Changes to the requirements for firm names are intended to reflect the statutory changes adopted by the Legislature during the 2013 Session. The statute now allows the use of network firm names. The rules define misleading and fictitious firm names based on the statute changes.

ALTERNATIVE FORMAT

Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make a request, contact Andrea Barker at the Board of Accountancy, 85 E. 7th Place, Suite 125, St. Paul, MN 55101, 651-757-1511, Fax: 651-282-2644, and email: andrea.barker@state.mn.us. TTY users may call the Board at (800) 627-3529.

STATUTORY AUTHORITY

This rulemaking is an amendment of rules for which the Legislature has not revised the statutory authority since and so Minnesota Statutes, section 14.125, does not apply.

The Board's statutory authority to adopt the rules is stated in Minnesota Statutes section 326A.02, subdivision 5 which provides:

326A.02 STATE BOARD OF ACCOUNTANCY

Subd. 5. **Rules.** The board may adopt rules governing its administration and enforcement of this chapter and the conduct of licensees and persons registered under section 326A.06, paragraph (b), including:

- (1) rules governing the board's meetings and the conduct of its business;
- (2) rules of procedure governing the conduct of investigations and hearings and discipline by the board;
- (3) rules specifying the educational and experience qualifications required for the issuance of certificates and the continuing professional education required for renewal of certificates;
- (4) rules of professional conduct directed to controlling the quality and probity of services by licensees, and dealing among other things with independence, integrity, and objectivity; competence and technical standards; and responsibilities to the public and to clients;
- (5) rules governing the professional standards applicable to licensees including adoption of the standards specified in section 326A.01, subdivision 2, and as developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants or the Public Company Accounting Oversight Board;
- (6) rules governing the manner and circumstances of use of the titles "certified public accountant," "CPA," "registered accounting practitioner," and "RAP";
- (7) rules regarding peer review that may be required to be performed under provisions of this chapter;
- (8) rules on substantial equivalence to implement section 326A.14;
- (9) rules regarding the conduct of the certified public accountant examination;
- (10) rules regarding the issuance and renewals of certificates, permits, and registrations;
- (11) rules regarding transition provisions to implement this chapter;
- (12) rules specifying the educational and experience qualifications for registration, rules of professional conduct, rules regarding peer review, rules governing standards for providing services, and rules regarding the conduct and content of examination for those persons registered under section 326A.06, paragraph (b);
- (13) rules regarding fees for examinations, certificate issuance and renewal, firm permits, registrations under section 326A.06, paragraph (b), notifications made under section 326A.14, and late processing fees; and
- (14) upon any change to this chapter, if the board determines a change in Minnesota Rules is required, the board may initiate the expedited process under section 14.389 up to one year after the effective date of the change to this chapter.

Under this statute, the Board has the necessary statutory authority to adopt the proposed rules.

BACKGROUND INFORMATION

Housekeeping modifications: Each year, in compliance with Minnesota Statutes, section 14.05, subdivision 5, the Board is required to submit a report to the governor and legislators on obsolete, unnecessary and duplicative rules contained within Chapter 1105. Many of the rules in this section have been identified as obsolete, unnecessary or duplicative. Additionally, during the 2013 Legislative Session, the legislature moved the Board's fee language from rule to statute. Updating the references of the fee language from rule to statute is included in this section.

Certificate renewal and continuing professional education requirements: During the 2013 Legislative Session, the Legislature modified the statutory requirement for renewal of Certified Public Accountant certificates. The rule modifications will align the rules with the statute. Previously, certificates were renewed every three years on a cycle based upon the date of original licensure and the licensee's last name. Certificate renewals were due by December 31 in the year of expiration. Additionally, continuing professional education was required to be reported each year. CPE must have been obtained by June 30 each year and reported by July 31, EXCEPT for those whose licenses needed to be renewed that year. Licensees who were renewing had to obtain their CPE by June 30, but were not required to report their CPE until December 31.

This out-of-sync system of renewal and CPE resulted in quite a bit of confusion. Additionally, the Board's Continuing Professional Education (CPE) requirements are incredibly complex and confusing. The modifications to the CPE rules are intended to simplify and clarify the requirements. The actual requirements themselves are not changing, only the way they are presented.

Firm names: During the 2013 Legislative Session, the Legislature modified Minnesota Statute section 326A.10 to allow CPA firms to use in their names a common brand name or network name part. The rules will supplement the statute change and define misleading and fictitious firm names.

REGULATORY ANALYSIS

“(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule”

The classes of persons who will probably be affected by, as well as benefit from, the proposed rule modifications are generally all applicants, licensees, certificate holders and firms. The housekeeping changes involve cleaning up existing language. Obsolete and duplicative rules are deleted making it easier for an applicant, licensee or certificate holder to understand the current requirements.

The changes to the renewal and CPE requirements will not increase or decrease direct costs to licensees. The annual renewal requirement will be phased-in as licenses expire. Individuals who have already paid their renewal fees through 2014, 2015 or 2016 will not be required to renew and pay again for those time periods. Their annual renewal requirement will begin upon expiration of their current license.

The changes to the firm name requirements will not increase or decrease direct costs to firms. Firms will benefit for the changes because they will have more options for naming.

All applicants, licensees, certificate holders and firms will benefit from the proposed rule because the rules will be aligned with the statute and they will be easier to understand and comply with. All users of the proposed rule will benefit in that the rules will be easier to understand and regulate.

“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”

The probable costs to the Board include the costs associated with rulemaking in general. To accommodate the changes in the statute, modifications must be made to the Board’s database and online renewal system. However, the Board does not anticipate any additional increase or decrease in the costs pertaining to the implementation of the proposed rules since the new rules will replace existing rules and will be administered in the same manner. Likewise, the probable cost of enforcing the proposed rules is not expected to increase or decrease for the same reason.

The Board is charged with the implementation and enforcement of the proposed rule. As such, it does not anticipate any probable costs to any other agency or any effect on state revenues.

“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”

The purpose of the proposed rule modifications is to align the rules with the statutes, to delete obsolete or duplicative language, and to simplify existing language. No other methods, other than rule writing, exist for achieving these goals.

“(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”

No alternative methods appear to exist.

“(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”

Fees for applicants, licensees, certificate holders and firms are specified in statute. There are no additional probable costs for applicants, licensees, certificate holders and firms to comply with the proposed rules. No other governmental units or businesses will be affected by the rule modifications.

“(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals”

The consequences of not adopting the proposed rules include keeping outdated and confusing language in the rule and not aligning the rules with the statute. Outdated and confusing rules and language causes confusion for applicants, licensees, certificate holders, staff, businesses and the general public.

“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”

No relationship exists between these rules and federal regulations.

“(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule. . . . [C]umulative effect’ means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.”

The proposed rules cover areas that are not addressed by federal law or other Minnesota state laws. Therefore, this consideration is not applicable for this rule.

RULE-BY-RULE ANALYSIS

FEE REFERENCES

The following rules have been modified to properly reference the fees which are now spelled out in statute rather than rule. No other modifications have been made to these rule parts:

- M.R. 1105.1650, item C
- M.R. 1105.2100
- M.R. 1105.2400
- M.R. 1105.4100, item B
- M.R. 1105.6600, item E
- M.R. 1105.7200, item B

M.R. 1105.0100 DEFINITIONS

The definition of “certificate holder” (Subp. 5) has been deleted. “Certificate holders” no longer exist. Individuals now remain “applicants” until they are licensed. There is no interim status as “certificate holder.”

Several definitions are added to the rule to clarify the different types of continuing education activities in which a licensee may participate, such as “group internet-based program,” “group live program,” “group program,” “independent study,” “internet-based program,” and “self-study program.” Licensees already engage in these types of activities for continuing education credit, but adding the definitions alleviates confusion. These definitions are standard definitions commonly used by accountancy licensure boards across the United States.

M.R. 1105.0500 DUTIES OF OFFICERS

The reference to the executive “secretary” has been changed to “director” in order to match the language in statute.

M.R. 1105.0700 REFUNDING FEES

The reference to fees is changed from rule to statute. Additionally, the Board does not collect the fee for the CPA examination. This fee is determined and collected by the third-party exam administrator. Therefore, the rule has been modified to state that the examination fee *may be* refundable pursuant to the policy of the third-party administrator, rather than stating that the examination fee *is* refundable. The Board does not have a part in collecting or refunding these fees.

M.R. 1105.1500 EDUCATION REQUIREMENTS

In the title and subpart 1, the references to the date of "on or after July 1, 2006" have been removed. The July 1, 2006 date has long passed and is unnecessary - all applicants are applying on or after July 1, 2006.

Subpart 2 is repealed in this rulemaking as the education requirements before July 1, 2006 are obsolete. All applicants are applying after July 1, 2006 and therefore must meet the education requirements in subpart 1.

M.R. 1105.1600 APPLICATIONS FOR EXAMINATION

The reference to fees in subpart 2 has been changed from rule to statute. The sentence regarding the requirement for applicants to complete their applications within 4 years or be required to submit a new application has been added to reflect the Board's record retention policy. Applications which have not been acted on in four years are destroyed under the record retention policy.

M.R. 1105.2500 APPLICATIONS FOR CERTIFICATES

The references to fees in item A and item D, subitem 2 have been changed from rule to statute. The sentence in item A regarding the requirement for applicants to complete their applications within 4 years or be required to submit a new application has been added to reflect the Board's record retention policy. Applications which have not been acted on in four years are destroyed under the record retention policy. Applications are not considered filed/complete until the Board receives both the applicable fees and the required supporting documentation. Subitems 1 and 2 have been added to make clear what supporting documentation is required for initial applications and renewals.

Item C, subitem 3 is obsolete as there are no longer "certificate holders." The remaining subitems under Item C have been updated to reflect the deletion of subitem 3. The references to 1105.2700 in item C and Item D have been removed because 1105.2700 is obsolete.

M.R. 1105.2560 RENEWAL OF CERTIFICATES AFTER 2013.

This rule is a new rule, replacing M.R. 1105.2550 which was repealed during the 2013 Legislative Session. The new rule clearly states the renewal requirements and phases-in the annual renewal requirement.

Minnesota Statute 326A.04, subdivision 2 was amended to state that certificates must be renewed annually, rather than every three years. This amendment is effective for licenses issued or renewed after January 1, 2014. Because the Board had a three year renewal cycle, those individuals holding a current license have an expiration date of either December 31, 2013, 2014 or 2015.

Licenses with an expiration date of December 31, 2013 are required to renew prior to their expiration. Because the annual renewal does not go into effect until January 1, 2014, licensees with a December 31, 2013 expiration date who renew prior to the deadline will renew for three years and will have a new expiration date of December 31, 2016. Licensees who renew late (after the December 31, 2013 deadline) will have their license renewed for one year and that license will expire on December 31, 2014.

Licenses with an expiration date of December 31, 2014, 2015 or 2016 will renew for one year upon expiration of their license as stated in item A.

Item B states that initial issuance of certificates will expire on December 31 following issuance and will be renewed annually.

Item C requires licensees holding an "active" certificate to comply with the CPE requirements. This same language was in the old rule (1105.2550).

Item D accounts for the individuals with an expiration date of December 31, 2013 or prior who are renewing late (on or after January 1, 2014) and states that those individual's licenses will expire on December 31 following renewal.

M.R. 1105.2600 EXPERIENCE REQUIRED FOR INTIAL CERTIFICATE

In the title and item D, the references to the date of "on or after July 1, 2006" have been removed. The July 1, 2006 date has long passed and is unnecessary - all applicants are applying on or after July 1, 2006.

M.R. 1105.3000 CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS

Items A-K are rewritten as items A-G. *The actual CPE requirements are not changing*, but are rather reworded for clarity and uniformity.

- Item A and subitems (1) to (4) explicitly state the requirements for a licensee with an active status.
- Item B defines the CPE period and carryback hours.
- Item C states that certificates may not be renewed without CPE (unless an exception is granted).
- Item D explicitly states the requirements for a licensee with an inactive status desiring an active certificate.
- Item E explains the CPE non-compliance fees and when they are assessed.
- Item F and subitems (1) and (2) spells out the requirements for a licensee changing from an "active" status to an "inactive" status.
- Item G and subitems (1) and (2) defines the exempt period for initial licensees based on the date in which the license is granted.

M.R. 1105.3100 CONTINUING PROFESSIONAL EDUCATION PROGRAMS

The first modification to subpart 1 is to remove the statement requiring self-study programs to be members of the National Association of State Boards of Accountancy's (NASBA) Quality Assurance Service (QAS) program. NASBA no longer has a separate QAS list, but rather lists self-study programs that meet the requirements of the QAS program on the regular NASBA CPE registry.

The second modification to subpart 1 changes the terms of "seminar and lecture programs" to the more general category of "group programs." Additionally, in order to be considered as a "group program," it must be designed with interaction between the attendee and the instructor/facilitator and other participants.

There are 5 categories of group programs that are not subject to the NASBA CPE Registry requirement. These categories are stated in items A through E.

- The modifications to item A are grammatical to increase clarity.
- Items B through D remain the same.
- Item E has been added to allow individuals to claim programs that are sponsored by professional organizations recognized by other state boards of accountancy. For example, a professional organization in Iowa sponsors a program that is recognized by the Iowa

Board of Accountancy. Minnesota licensees could claim those hours even though it is not licensed on the NASBA CPE Registry.

The first modification to subpart 2 is to remove redundant language ("or part 1105.3000, item A"). The second modification removes the language which states "and provided at least 72 hours for the three-year period to meet the requirements of subpart 1." This sentence has been moved to subpart 4 for clarity and consistency. The third modification is to remove the sentence stating that all self-study program sponsors must be members of NASBA's QAS. Approved self-study programs are now listed on the NASBA CPE registry.

The final modification to subpart 2 is to add five additional types of learning activities which are eligible for CPE credit: group live programs, group Internet-based programs; independent study; authoring articles; books or CPE courses for publication; and preparation time and presentations of courses or seminars. Definitions for these activities have been added to M.R. 1105.0100 as described above.

The modifications to subpart 3 are grammatical in nature.

The modifications to subpart 4 clarify limitations on the CPE requirements. The first is to insert the word "rolling" to define the CPE period. Licensees must obtain their continuing education on a rolling three-year period. In any given three-year time frame, the licensee must have 120 hours of CPE, with a minimum of 20 hours in each of those three years and 8 hours of ethics as stated in M.R. 1105.3000. The three-year rolling time frame also has certain limitations which are spelled out in subpart 4. These limitations are not changing, but rather they have been reworded for clarity. Instead of stating that "at least" a certain number of hours must have been obtained from "other than" a certain type of course, which is very confusing, the limitations are defined by stating the maximum number of hours allowed in specific categories.

- In item A, rather than stating that "at least 60 hours must be obtained from other than instructor preparation or presentation," the new wording states that "a maximum of 60 hours may be claimed for presenting or instructing qualifying courses or seminars." Licensees are not required to obtain CPE through presenting or instructing courses, so the word "may" has been added. They may use up to 60 hours from this category, but are not required to. The limitation is the same, but it is phrased in a clear manner.
- The modifications to item B mirror the changes to item A for claiming CPE for authoring articles, books or CPE courses for publication.
- Item C is modified to clearly state that 24 hours must be obtained from attending instructor-led programs rather than stating that these 24 hours must be obtained from "other than self-study." "Other than self-study" means "instructor-led." It is much clearer to state what the licensee must do rather than what they must not do.
- Item D is modified in a similar manner to item C. A maximum of 24 hours may be obtained from programs in the subject area of personal development. This is clearly stated rather than saying, "at least 96 hours must be obtained from programs in subject areas other than personal development." Additionally, the newest *Statement of Standards for CPE Programs* does not define "personal development," so the rule cannot refer the reader to that document for the definition. Instead, the actual definition is inserted into the Board's rule.

- The statement listed under item E is not a new limitation. It was originally stated in Subp. 2, but has been moved to the more logical location under CPE hour limitations.

M.R. 1105.3200 CONTINUING PROFESSIONAL EDUCATION RECORDS

The first change is to add "reporting" to the title. This rule contains requirements for both CPE reporting and records, so it is logical to add it to the title for clarity.

Items A-C have been reorganized as items A-D for clarity.

- Item A is split into items A and B. The new item A describes the CPE reporting requirement.
- The new item B describes the documentation requirements. The sentences have been changed to the active voice so it is clear that the licensee is responsible for documenting CPE. The second paragraph of item B has been divided into two sentences. The first describes documentation for CPE programs meeting the registry requirements and the second describes documentation for CPE programs that do not meet the registry requirements. Subitem 3 has been removed because it is not necessary to keep a copy of the biography of the program developer and program presenter as part of the documentation of participation in a non-registry CPE activity.
- Item C describes CPE audits. The audit procedure remains the same; however the paragraph has been rewritten for grammar and clarity.
- Item D changes the CPE reporting deadline from July 31 to December 31 for ALL licensees. Prior to the statute change, when licensees renewed their licenses every three year, there were two different CPE reporting deadlines. Though all CPE must have been completed by June 30, licensees who were not in a renewal year were required to report their CPE by July 31 while licensees were in a renewal year were not required to report their CPE until December 31. This system was incredibly confusing for licensees to try to remember when their CPE needed to be completed and when it needed to be reported based on when they were required to renew. By changing the reporting deadline to December 31, it coincides with the annual renewal requirement making it much easier for licensees to understand. CPE still must be completed by June 30 and it can be reported online at any time during the calendar year, but the deadline to report will be uniform at December 31.

M.R. 1105.3300 EXCEPTION TO CONTINUING PROFESSIONAL EDUCATION REQUIREMENT.

The first change to item A is for clarity. Rather than listing the four types of services involving the use of accounting or auditing skill in one long run-on sentence, the four types have been listed in subitems 1-4. Licensees who perform or offer to perform any of these four types of services cannot be granted an exception to the CPE requirement.

The second change to item A is to state exactly when an exception to the CPE requirement may be requested rather than referring the reader to another rule part.

In item D, the reference to 1105.3000 has been updated from item E to item D to reflect changes proposed to 1105.3000 in this rule package.

M.R. 1105.3350 CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS FOR INITIAL ISSUANCE OF CERTIFICATE.

Changes to this rule are for clarity. Licensees don't "receive" continuing education, they "complete" it, therefore, the applicant must include a report of CPE *completed* (not *received*) during the three years prior to the date of their initial application for licensure.

M.R. 1105.3700 EXEMPTION FROM CERTIFICATE RENEWAL REQUIREMENT

The modification to item A removes the effective date of a status change to "exempt" from January 1 to any date. The individual must notify the Board of his or her election of exempt status, but does not have to wait months for the status to be effective. If an individual's license expired on December 31 and they did not renew it, then, in January, the individual decided to elect "exempt" status, under the current rule their exempt status would not be effective until the following January (an entire year). By changing the rule, the potentially lengthy waiting period for the status change to become effective is eliminated.

Item C has been clarified to state that persons changing from exempt status to "active" status shall report CPE. Changing from exempt status to "inactive" status does not require CPE.

- Subitem (1) has been grammatically updated.
- Subitem (2) has been rewritten for clarity. If an applicant had not yet completed the CPE requirements before they requested exempt status, the applicant must make up those hours, in addition to the hours required for changing status to "active," prior to license reinstatement.

Item D has been modified to remove the words "the facts." An individual who is "holding out" does not have a CPA certificate, so it is not a "fact" that the person holds a CPA certificate as the rule currently states.

Item E has been deleted since certificate holders no longer exist.

M.R. 1105.3800 INITIAL ISSUANCE OF CERTIFICATE

The reference to the date of "on or after July 1, 2006" in the title is unnecessary and has been removed. The reference to fees in item B has been changed from rule to statute. Item E is obsolete and has been deleted – all applications that the Board receives are after the July 1, 2006 date. Item F has been modified because there are no longer variables to the education and experience requirements. The variable dates have long since passed and all future applicants must meet the same experience and education requirements as stated in the new items E and F.

M.R. 1105.3900 RENEWAL BY CERTIFICATE HOLDERS WHO HAVE NOT MET THE EXPERIENCE REQUIREMENTS...

This entire rule is repealed. Certificate holders no longer exist. These individuals were given until July 1, 2006 to obtain the experience required for licensure. Those individuals who did not complete the experience and obtain a license had their certificate revoked.

M.R. 1105.4000 APPLICATION FOR FIRM PERMIT

The references to fees in items A and F have been changed from rule to statute. In item A, the sentence regarding the requirement for applicants to complete their applications within 4 years or be required to submit a new application has been added to reflect the Board's record retention policy. Applications which have not been acted on in four years are destroyed under the record retention policy.

In item B, the rule reference to the rule stating when a sole proprietor firm permit is needed has been added for clarity. Items C & D have been reworded for clarity. In item G, the words "has not" have been added to the second half of the sentence for clarity. Item I has been rewritten for clarity.

Item J has been added to reflect the requirement listed in Minnesota Statute section 319B. Firms are required by 319B to submit a copy of the articles of incorporation, articles of organization, LLP registration, or in the case of a foreign firm, a copy of the certificate of authority from the Secretary of State's Office. Stating this requirement in Item J makes it clear that those documents are required as part of the firm permit application.

Item K has been added to require that applications for firm permits include a copy of the firm's letterhead. This helps to ensure that the company is complying with the firm name requirements.

M.R. 1105.4300 QUALITY REVIEW AS CONDITION FOR RENEWAL OF PERMIT

Subitems 1-5 of item A have been changed from passive voice to active voice. Item B, subitems 3-5 have been rewritten to improve sentence structure and clarity.

M.R. 1105.4500 LICENSED PUBLIC ACCOUNTANTS

The rule has been repealed in its entirety. "Licensed Public Accountants" were converted to "Certified Public Accountants" on December 31, 2002. "Licensed Public Accountants" no longer exist.

M.R. 1105.5000 QUALITY REVIEW CYCLE FOR FIRMS

This rule is obsolete and has been repealed. Prior to December 31, 2002, the Board placed firms in three cycles for quality review (Cycle A, Cycle B and Cycle C). This rule established the three year cycle for these existing firms. All new firms after December 31, 2002 established their cycle according to part 1105.5100. The firms that were originally in Cycles A, B and C have been firmly established in the new system since 2005, therefore, this rule is unnecessary.

M.R. 1105.5100 FIRM QUALITY REVIEW REQUIREMENT

The reference to January 1, 2003 is obsolete and has been removed. The rule has been codified for clarity. Item A makes it clear that there are 2 conditions to firm permit renewal as identified in subitems (1) and (2). The original items A-D have been recoded as items B-E. No other changes to items B-E have been made.

M.R. 1105.5400 REPORT TO BOARD

The reference to part 1105.5000 has been deleted as 1105.5000 has been proposed to be repealed in this rule making. The last sentence of item A, beginning with the phrase "Prior to January 1, 2008," is obsolete and has been deleted.

M.R. 1105.6300 MISLEADING CPA FIRM NAMES

Changes to this rule reflect the modifications made to Minnesota Statutes, section 326A.10 regarding firm names during the 2013 Legislative Session. The statute states that a common brand name or network name part is not misleading if a firm meets certain requirements.

Item A specifically states that a CPA firm may not use its name until it has been registered with and approved by the Board. The Board approves all CPA firm names to ensure that they are not misleading to the public.

Item B defines misleading firm names. Subitem (1) states that CPA firms are not allowed to use a name that would cause a reasonable person to be confused about a firm's organization or about

who the owners and members of the firm are. Units (a) through (f) specify names that would be considered misleading.

- A CPA firm name cannot imply the existence of a corporation when the firm is not a corporation or imply the existence of a partnership when there is not a partnership.
- Firm names cannot include the name of a non-CPA if the title "CPAs" is included in the firm name. For example, if John Doe is not a CPA, the firm name cannot be "Smith and Doe, CPAs." This would imply inaccurately that *Doe* is a CPA. Likewise, firm names cannot indicate an association with persons who are not members of the firm.
- If there is only one person at the firm, the firm name cannot include terms such as "and company" or "and associates." This incorrectly implies that there is more than one CPA at the firm.
- Finally, the firm name cannot contain the name of a person who has never been a partner, member or shareholder of the firm.

Subitem (2) states that a firm's name cannot contain any representation that would cause a reasonable person to have a false or unjustified expectation of favorable results or capabilities.

Subitem (3) states that a firm's name cannot imply the ability to influence a regulatory body or official.

Subitem (4) states the terms under which a firm's name cannot include the name of an owner whose license has been revoked by the Board.

Item C and subitems (1) through (4) delineate the types of firm names that are NOT considered misleading.

- Firm names can include the names of one or more former or present owners.
- Firm names can exclude the names of one or more former or present owners.
- Firm names can use the CPA title as part of the firm name if all the named individuals are owners of the firm with current CPA certificates or are former owners who held a current CPA certificate at the time they ceased being a firm owner.
- Firm names can include the name of a non-CPA owner if the firm's name does not include the CPA title.

Item D states that a network firm may use a common brand name, or share common initials, as part of the firm name.

Item E states the circumstances under which a network firm can use the network name as the firm's name. In order to do so, the firm must share one or more of the characteristics listed in subitems (1) to (5) with other firms in the network.

- Common control among the firms through ownership, management or other means
- Profits or costs
- A common business strategy that involves ongoing collaboration amongst the firms

- A significant portion of professional resources
- Common quality control policies and procedures that participating firms are required to implement

Item F is the codification of an existing rule.

M.R. 1105.6550 DEFINITION OF VALID CERTIFICATE, LICENSE, PERMIT, REGISTRATION, AND OF GOOD STANDING

The reference to part 1105.3900 has been deleted as 1105.3900 has been proposed to be repealed in this rule making.

M.R. 1105.7000 RENEWAL OF REGISTRATION

This rule refers to the renewal of registration for Registered Accounting Practitioners. The references to fees in item A have been updated from rule to statute. The ethics requirements for continuing professional education in item B has been modified to state that at least 4 hours must be in regulatory ethics or behavioral ethics (instead of accounting ethics or business ethics). This change matches the requirement for CPAs listed in M.R. 1105.3000. The statement of the topics included in a program in ethics has been removed broadening the coursework that may count toward the ethics requirement.

M.R. 1105.7100 RAP FIRM APPLICATION

The references to fees have been modified to reference the statute rather than rule. The sentence regarding the requirement for applicants to complete their applications within 4 years or be required to submit a new application has been added to reflect the Board's record retention policy. Applications which have not been acted on in four years are destroyed under the record retention policy.

Modifications to items B, D and G are grammatical in nature.

M.R. 1105.7450 MISLEADING RAP FIRM NAMES AND FICTITIOUS RAP FIRM NAMES

The changes to the RAP firm name rules mirror the changes to the CPA firm name rules described under M.R. 1105.6300 above.

PERFORMANCE-BASED RULES

Minnesota Statutes, sections 14.002 and 14.131, require that the SONAR describe how the agency, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals.

To safeguard life, health and property, and promote the public welfare, the Board provides reasonable assurance that persons practicing public accounting are competent, ethical practitioners qualified through education, examination and experience. Additionally, as an official state licensing agency, the Board is charged with the responsibility of implementing those statutes and rules which specifically regulate the practice of accounting.

The proposed rule amendments embodied in this Statement of Need and Reasonableness emphasize superior achievement in meeting the Board's regulatory objectives with maximum flexibility for the regulated party and the Board in meeting those goals. The Board has identified language that is outdated and/or confusing for applicants, licensees, certificate holders, firms and the public. It is critical that the Board identifies actual or potential areas of confusion on the path to

licensure or renewal within its jurisdiction in order to meet its obligations to the public and regulated parties. To do otherwise creates difficulties for all interested parties – the public, members of the regulated profession, and the Board.

The proposed amendments allow for maximum flexibility to the regulated parties and to the Board. Renewal, continuing education and firm naming requirements have been simplified and aligned with the statutory requirements. These rules allow applicants for licensure or renewal to more easily navigate through the process and to understand what is required of them. With clear requirements for renewal, continuing professional education and firm names, the Board can efficiently review applications and supporting documentation to determine whether or not the requirements have been met.

The housekeeping updates ensure that the Board's general rules remain current and understandable. It is required in the "Obsolete Rules Report" to indicate when the out-of-date rules are scheduled to be updated. Including these updates in this rule package fulfills the Board's requirement to update its rules.

ADDITIONAL NOTICE

This Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in a letter dated November 5, 2013 by Administrative Law Judge Laura Sue Schlatter.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Minnesota Association of Public Accountants ("MAPA"), a professional society representing Certified Public Accountants regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the Minnesota Society of Certified Public Accountants ("MNCPA"), a professional society representing Certified Public Accountants regulated by this Board.

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to Minnesota academic institutions that offer accredited accounting degree programs:

- Academy College
- Augsburg College
- Bemidji State University
- Bethel University
- Capella University
- College of St. Benedict
- College of St. Catherine
- College of St. Scholastica
- Concordia College – Moorhead
- Concordia University
- DeVry University
- Globe University
- Gustavus Adolphus College
- Metropolitan State University
- Minnesota School of Business
- Minnesota State University – Mankato, College of Business
- Minnesota State University - Moorhead
- National American University
- Northwestern College

Rasmussen College
Southwest Minnesota State University
St. Cloud State University, G.R. Herberger College of Business
St. John's University
St. Mary's University
University of Minnesota – Carlson School of Management
University of Minnesota – Crookston
University of Minnesota – Duluth, Labovitz School of Business and Economics
University of St. Thomas, Opus College of Business
Winona State University, College of Business

Copies of the Dual Notice of Intent to Adopt and the proposed rule change will be mailed to the National Association of State Boards of Accountancy ("NASBA"), the national council representing Certified Public Accountants regulated by this Board.

The Board will also post the Dual Notice of Intent to Adopt and the proposed rule change on the Board's website.

The Dual Notice of Intent to Adopt will be published in the Board's newsletter, *The Board Report*. The newsletter will be mailed to all current licensees. The publication will include the website address where recipients will find the official language of the proposed rule and SONAR.

A postcard notification of the proposed rule changes with the website address where recipients will find the Dual Notice of Intent to Adopt, official language of the proposed rule and SONAR will be mailed to all current firm permit holders.

Our Notice Plan also includes giving notice required by statute. We will mail the proposed rules and Notice of Intent to Adopt to everyone who has registered to be on the Board's rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a. We will also give notice to the Legislature per Minnesota Statutes, section 14.116.

Our Notice Plan did not include notifying the Commissioner of Agriculture because the rules do not affect farming operations per Minnesota Statutes, section 14.111.

Our Notice Plan does not include notifying the Council on Affairs of Chicano/Latino People because the rules do not have a primary effect on Chicano/Lation people per Minnesota Statutes, section 3.922.

CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Board will consult with Minnesota Management and Budget (MMB). We will do this by sending MMB copies of the documents that we send to the Governor's Office for review and approval on the same day we send them to the Governor's office. We will do this before the Board's publishing the Notice of Intent to Adopt. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Board will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH at the hearing or with the documents it submits for ALJ review.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION

As required by Minnesota Statutes, section 14.128, subdivision 1, the Board has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The Board has determined that they do not because the rules pertain to individuals applying for licensure or certification by this Board and to individuals who are already licensed or certified by this Board, not to entities. Compliance with the rules falls on these individuals and enforcement of the rules falls solely on the Board.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

Agency Determination of Cost

As required by Minnesota Statutes, section 14.127, the Board has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Board has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city.

The Board has made this determination based on the probable costs of complying with the proposed rule, as described in the Regulatory Analysis sections on pages 3-5 of this SONAR.

LIST OF WITNESSES

If these rules go to a public hearing, the Board may have the following potential witnesses for testimony in support of the need for and reasonableness of the rules:

Ms. Kate Mooney, CPA, Board Chair
Mr. Robert P. Saunders, CPA, Vice Chair
Mr. Gregory Steiner, CPA, Secretary/Treasurer
Ms. Kristine Eustice, Public Member
Ms. Sharon Jensen, CPA
Mr. Thomas Lydon, CPA
Mr. Mark Sellner, CPA
Mr. Scott Van Binsbergen, Public Member
Mr. Michael M. Vekich, CPA

CONCLUSION

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

11.7.13
Date

Doreen Frost
Doreen Frost
Executive Director