

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

Editor's Note: The following Notice of Proposed Rulemaking is exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 3481.)

[R13-188]

PREAMBLE

1. Articles, Parts, or Sections Affected (as applicable)

Rulemaking Action

R4-1-101	Amend
R4-1-102	Amend
R4-1-104	Amend
R4-1-105	Amend
R4-1-113	Amend
R4-1-114	Amend
R4-1-115	Amend
R4-1-115.01	Amend
R4-1-115.02	Amend
R4-1-115.03	Amend
R4-1-115.04	Renumber
R4-1-115.04	Amend
R4-1-116	Renumber
R4-1-117	Amend
R4-1-118	Repeal
R4-1-226.01	Amend
R4-1-228	Amend
R4-1-229	Amend
R4-1-341	Amend
R4-1-342	Repeal
R4-1-343	Amend
R4-1-344	Amend
R4-1-345	Amend
R4-1-346	Amend
R4-1-453	Amend
R4-1-454	Amend
R4-1-455	Amend
R4-1-455.01	Amend
R4-1-455.02	Amend
R4-1-455.03	Amend
R4-1-455.04	Amend
R4-1-456	Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 32-703(B)(7)

Implementing statute: A.R.S. §§ 32-721, 32-723, 32-729, 32-730, 32-730.01, 32-730.02, 32-730.03, 32-730.04, 32-741.01, 32-741.02, 32-741.03, 741.04, and 32-742.

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 19 A.A.R. 3471, November 1, 2013 (*in this issue*).

4. The agency's contact person who can answer questions about the rulemaking:

Name: Monica L. Petersen, Executive Director
Address: Board of Accountancy
100 N. 15th Ave., Suite 165
Phoenix, AZ 85007
Telephone: (602) 364-0804
Fax: (602) 364-0903
E-mail: mpetersen@azaccountancy.gov
Web site: www.azaccountancy.gov

5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

The rules are being updated due to the passage of Laws 2013, Ch. 136, HB 2260 effective September 13, 2013; to ensure that the rules reflect the Board's operating practice; and to provide technical, clarifying, and conforming changes to improve the organization and readability of the rules for the public.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

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

Not applicable

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

Laws 2013, Ch. 136, HB 2260, § 7 allows the Board to establish a uniform application fee to reinstate a license. The Board has decided on an amount of \$100 which is the same application fee charged to exam applicants and certification applicants. There were 15, 22, 24, 28 reinstatements in FY 2010, FY 2011, FY 2012, FY 2013 respectively for a four year average of 22 reinstatement applications annually. By a way of comparison, the Board regulates over 10,000 Certified Public Accountants. As such, there are a minimal number of individuals that were once certificate holders that later decide to reinstate their license that will be impacted. There will be a positive impact to CPAs with respect to the amendment in R4-1-453 related to continuing professional education (CPE) requirements. The current rule allows CPE credit for only whole hours but the rule is being amended to allow half hour increments for any period not less than a whole class hour. Certified Public Accountants (CPA) will now get credit for partial hours that they formally did not receive credit which will have a positive impact as CPAs will not have to incur additional costs for lost partial CPE credit to meet their CPE requirements.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Monica L. Petersen
Address: Board of Accountancy
100 N. 15th Ave., Suite 165
Phoenix, AZ 85225
Telephone: (602) 364-0870
Fax: (602) 364-0903
E-mail: mpetersen@azaccountancy.gov
Web site: www.azaccountancy.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding regarding the proposed rules will be held as follows:

Date: December 3, 2013
Time: 9:00 a.m.

Notices of Proposed Rulemaking

Location: Board of Accountancy
100 N. 15th Ave., Suite 165
Phoenix, AZ 85007

The rulemaking record will close December 3, 2013.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

A definition for compilation services published by the American Institute of Certified Public Accountants in R4-1-101 is incorporated by reference. The Standards for Performing and Reporting on Peer Reviews published by the American Institute of Certified Public Accountants in R4-1-453 is incorporated by reference.

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

ARTICLE 1. GENERAL

Section

- R4-1-101. Definitions
- R4-1-102. Powers of the Board: Applicability; Excuse; Extension
- R4-1-104. Board Records; Public Access; Copying Fees
- R4-1-105. Confidential Records
- R4-1-113. Meetings; ~~Examinations~~
- R4-1-114. Hearing; Rehearing or Review
- R4-1-115. Accounting and Auditing and Tax Advisory Committees
- R4-1-115.01. Law Review Advisory Committee
- R4-1-115.02. Continuing Professional Education Advisory Committee
- R4-1-115.03. Peer Review Oversight Advisory Committee
- ~~R4-1-116~~R4-1-115.04. Certification Advisory Committee
- R4-1-116. Renumbered
- R4-1-117. Procedure: Witnesses; Service
- R4-1-118. ~~Specified Forms~~ Repealed

ARTICLE 2. CPA EXAMINATION

- R4-1-226.01. Applications; Examination - Computer-based
- R4-1-228. Examination ~~Results Scores~~; Review and ~~Processing of Grades and Papers~~ Appeal of Scores
- R4-1-229. ~~Condition~~ Conditioned Credit

ARTICLE 3. CERTIFICATION AND REGISTRATION

- R4-1-341. CPA Certificates; ~~by Examination~~ Reinstatement
- R4-1-342. ~~CPA Certificates; by Reciprocity~~ Repealed
- R4-1-343. Education and Accounting Experience
- R4-1-344. Denial of Certification
- R4-1-345. Registration; Fees; ~~Certificate Renewal~~
- R4-1-346. Notice of Change of Address

ARTICLE 4. REGULATION

- R4-1-453. Continuing Professional Education
- R4-1-454. Peer Review
- R4-1-455. Professional Conduct: Independence, Integrity, and Objectivity
- R4-1-455.01. Professional Conduct: Competence and Technical Standards
- R4-1-455.02. Professional Conduct: Confidentiality; Records Disposition
- R4-1-455.03. Professional Conduct: Other Responsibilities and Practices
- R4-1-455.04. Professional Conduct: Interpretations
- R4-1-456. Reporting Practice Suspension and Violations

ARTICLE 1. GENERAL

R4-1-101. Definitions

A. The definitions in A.R.S. § 32-701 apply to this chapter

B. In these rules this chapter, unless the context otherwise requires:

1. ~~“Board” means the Board of Accountancy created by A.R.S. §32-701.~~
2. ~~“Certificate” means a document issued by the Board authorizing the use of the CPA designation.~~
3. ~~“Certified public accountant” or “public accountant” includes any individual or firm registered 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~~
31. ~~“Compilation services” has the same meaning as “compilation of financial statements” in section 100.04 60.05 of the Statements on Standards for Accounting and Review Services No. 19, issued December 2009 and published June 1, 2003 2013, by the American Institute of Certified Public Accountants, New York, New York 10036-8775, which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board's office.-~~
2. “CPE” or “continuing professional education” means attending classes, writing articles, conducting or teaching courses, and taking self-study courses if the activities contribute to maintaining and improving of professional competence in accounting.
63. ~~“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.~~
74. ~~“Educational Enhancement Review” means an assessment by the PROAC of one or more aspects of the professional work of a firm that performs only nondisclosure compilation services.~~
8. ~~“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 six years.~~
9. ~~“Financial statements” means statements and footnotes related to them that purport to show financial position or changes in financial position that relate to a period of time, and statements that use a cash or other comprehensive basis of accounting. Balance sheets, statements of income, statements of retained earnings, statements of 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 a preparer required on a tax return neither constitutes an opinion on a financial statement nor requires a disclaimer of the opinion.~~
105. ~~“Full-disclosure compilation services” means a compilation of financial statements that does not omit substantially all disclosures.~~
116. ~~“Nondisclosure compilations compilation services” means a compilation of financial statements that omits substantially all disclosures.~~
127. ~~“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.~~
138. ~~“Peer review” means an assessment of one or more aspects of the professional work of a firm that is registered with the Board to practice public accounting and performs restricted financial, attest services or full-disclosure compilation; or nondisclosure compilation services; conducted according to R4-1-454(J)(K).~~
149. ~~“Person” may include any individual, and any form of corporation, partnership, or professional limited liability company.~~
15. ~~“Practice of accounting” means providing any accounting services, including recording and summarizing financial transactions, analyzing and verifying financial statements, reporting financial results to an employer, clients or other parties and rendering attestation, tax and management advisory services to an employer, clients or other parties. A.R.S. §32-701(10).~~
16. ~~“Practice of public accounting” means the practice of accounting by a certified public accountant or public accountant.~~
17. ~~“PROAC” means the Peer Review Oversight Advisory Committee established by R4-1-115.03.~~

Notices of Proposed Rulemaking

18. "Registrant" means any certified public accountant, public accountant, or firm registered with the Board.

19. "Relinquishment" means the voluntary surrender of a registrant's certificate pending an investigation.

10. "Upper division course" means a course taken beyond the basic level, after any required prerequisite or introductory accounting course and does not include principals of accounting or similar introductory accounting courses.

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

A. ~~These rules apply~~ This chapter applies to all actions and proceedings of the Board and ~~are~~ is deemed a part of the record in every action or proceeding without formal introduction or reference. All parties are deemed to have knowledge of ~~the rules this chapter, which the Board shall make available on the Board's website. The Board shall supply a copy of the rules to any person free of charge.~~

B. The Board, when ~~it is~~ within ~~it's~~ the Board's jurisdiction, may, in the interest of justice, excuse the failure of any person to comply with any ~~part of these rules this chapter.~~

C. The Board, or in case of an emergency, the President or Executive Director, when ~~it is~~ within ~~it's~~ the Board's jurisdiction, may grant an extension of time to comply with any rule this chapter ~~when the extension is reasonable.~~

R4-1-104. Board 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 ~~it's~~ the Board's official activities including, but not limited to: ~~1. applications~~ Applications for C.P.A. and P.A. certificates and supporting documentation and correspondence; ~~2. applications~~ Applications to take the Uniform Certified Public Accountant Examination; ~~requests for annual registration;~~ 3. Registration for registrants; ~~4. documents~~ Documents, transcripts, and pleadings relating to disciplinary proceedings and to hearings on the denial of a certificate; ~~and~~ 5. investigative 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 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~~ this section shall make a request to the Board's Executive Director or the Director's designee, ~~during regular office hours.~~ The Executive Director or the director's designee 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 or the director's designee is unsure whether a record may be made available for public inspection and copying, the Executive Director or the director's designee shall refer the matter to the Board for final determination.

D. A person shall not remove original records of the ~~Accountancy~~ Board from the ~~Office~~ office of the Board unless ~~they~~ the records are in the custody and control of a ~~Board~~ board member, a member of the Board's committees or staff, or the Board's attorney. The Executive Director or the director's designee may designate a staff member to observe and monitor any examination of Board records.

E. ~~Copies~~ The Board shall provide copies of all records available for public inspection and copying shall be provided according to the procedures described in A.R.S. Title 39, Chapter 1, Article 2.

F. Any person aggrieved by a decision of the Executive Director or the director's designee ~~to deny~~ denying access to records of the Board may request a hearing before the Board to review the Executive Director's or the director's designee'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 requires immediate access to Board records, the person may request and may be granted an earlier hearing, if the person sets forth sufficient grounds for immediate access.

R4-1-105. Confidential Records

A. Complaints, reports, photographs, transcripts, correspondence and other documents relating to an investigation by the Board of possible violations of the Arizona ~~Board of Accountancy~~ accountancy statutes or ~~these rules~~ this chapter shall not be made available for public inspection and copying, except that investigative records shall be made available for public inspection and copying ~~upon the institution of~~ when a civil enforcement or disciplinary proceedings against the person who is the subject of the investigation is instituted.

B. Correspondence between the Board, members of the Board or staff members, or 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 accountant examination and an examinee's answers shall not be made available for public inspection and copying except that the 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 an examinee's own examination papers.

~~DC.~~ An examinee's grades scores on the uniform certified public accountant examination Uniform Certified Public Accountant Examination 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 scores.

~~ED.~~ Letters of reference received in connection with applications for certificates shall not be made available for public inspection and copying.

- FE.** Resumes, employment applications, personnel evaluations and injury reports regarding employees of the Board or applicants for employment shall not be made available for public inspection and copying, except that the records shall be disclosed as directed by the employee or applicant concerned.
- GF.** Minutes of executive sessions of the Board and its advisory committees and executive session agendas containing confidential information shall not be made available for public inspection or copying.
- HG.** The Board may, in the case of a record not otherwise made confidential by this Section, order that the record not be made available for public inspection or copying whenever the Board determines that public disclosure of the record would have a significant and adverse effect on the Board's ability to perform its duties or would otherwise be detrimental to the best interests of the state.
- HI.** Notwithstanding subsections (A) through (H), 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 the record no longer exist.

R4-1-113. Meetings; Examinations

- A.** The Board and ~~its~~ Board committees shall conduct meetings in accordance with the current edition of Robert's Rules of Order if ~~these~~ the rules are compatible with the laws of the state of Arizona or ~~it's~~ the Board's own resolutions regarding meetings.
 1. Regular and special meetings of the Board for the purpose of conducting business shall be called by the President or a majority of the ~~Board~~ board members.
 2. Regular and special meetings of the committees shall be called by the chairperson or a majority of the committee members.
- 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. Hearing; Rehearing or Review

- A.** Hearing: The Board or an Administrative Law Judge (ALJ) employed by the Office of Administrative Hearings (OAH) shall hear all contested cases and appealable agency actions. ~~Hearings held by the~~ The Board shall be conducted ~~conduct~~ hearings pursuant ~~according~~ to the provisions of A.R.S. Title 41, Chapter 6, Article 10 as supplemented by R4-1-117. ~~Hearings held by The~~ OAH shall be conducted ~~pursuant~~ conduct ~~hearings according~~ to A.R.S. Title 41, Chapter 6, Article 10 and the rules and procedures established by the OAH. To the extent ~~they do not~~ that there is no 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 the OAH. The following subsections apply to hearings conducted by the Board and hearings conducted by the OAH where applicable.
 1. Power to ~~Join~~ join any ~~Interested~~ interested ~~Party~~ party: Any ~~Board~~ board member or the ALJ may join as a party applicant or as a party defendant, any person, firm or corporation, ~~who~~ that appears to have an interest in the matter before the Board.
 2. Stipulation at ~~Hearing~~ hearing: The parties may stipulate to ~~any~~ facts that are not in dispute. The stipulation may be in writing; or may be made orally by reading the stipulation into the record at the hearing; ~~and~~ The stipulation is binding upon the parties unless the Board or the ALJ grants permission to withdraw from the stipulation. The Board or the ALJ may set aside any stipulation.
 3. Settlements and ~~Consent~~ consent ~~Orders~~ 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 to avoid formal disciplinary proceedings by the Board. ~~in which~~ In the offer of conditional settlement, the registrant ~~agrees~~ shall agree to take specific remedial steps such as enrolling in ~~continuing education~~ CPE 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 an order that incorporates the registrant's proposed conditional settlement and to which the registrant consents. A consent order issued under this subsection shall provide that, upon successful compliance by the registrant with all provisions of the order, the disciplinary proceedings shall be terminated and any notice of hearing previously issued shall be vacated. The consent order shall further provide that, upon failure of the registrant to comply with all provisions of the order, or upon the discovery of material facts unknown to the Board at the time ~~it~~ the Board issued the order, formal disciplinary proceedings against the registrant may be instituted or resumed. The consent order additionally may provide that, upon failure of the registrant to comply with all provisions of the order, the Board may immediately and summarily suspend the registrant's certificate for not more than one year. Within 30 days after the summary suspension, the registrant may request a hearing solely concerning the issue of compliance with the consent order.
 4. Decisions and ~~Orders~~ orders: The Board shall make all decisions and orders by a majority vote of the members considering the case. The Board shall issue a final written decision in a contested case or state the decision on the record.

Notices of Proposed Rulemaking

The decision shall state separately the findings of fact and conclusions of law, ~~upon~~ on which the decision 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~~ after receipt of the order. The Board shall serve each party, each attorney of record, and the Attorney General with a copy of each decision or order of the Board, as provided in R4-1-117.

- B. ALJ: In hearings conducted by the ~~Office of Administrative Hearings (OAH)~~ OAH, the ALJ shall provide the Board with written findings of fact, conclusions of law, and a 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 ALJ's recommendations is the final decision of the Board, subject to the filing of a motion for rehearing or review as provided in subsection (C).
- C. Rehearing or Review: Any party aggrieved by a decision of the Board may file with the Board a written motion for rehearing or review within 30 days after service of the decision specifying the particular grounds for the motion. The Attorney General may file a response to the motion for rehearing within 15 days after service of the motion. The Board may require the filing of written briefs upon issues raised in the motion for rehearing or review and provide for oral argument. Upon review of the documents submitted, the Board may modify the decision or vacate it and grant a rehearing for any of the following causes materially affecting a party's rights:
 1. Irregularity in the administrative proceedings or any order or abuse of discretion, that deprived a party of a fair hearing;
 2. Misconduct of the Board or the ALJ;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence, that could not with reasonable diligence 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, or during the progress of the proceeding; or
 7. That the findings of fact, or decision is not justified by the evidence or is contrary to law.

R4-1-115. Accounting and Auditing and Tax Advisory Committees

- A. The Board may appoint advisory committees concerning accounting reports, taxation and other areas of public accounting as the Board deems appropriate. ~~Such~~ The committees shall evaluate investigation files referred by the Board, hold voluntary informal interviews and make advisory recommendations to the Board concerning settlement, dismissal or other disposition of the reviewed matter.
- B. The Board, in its discretion, may accept, reject, or modify the ~~recommendation of the advisory committee recommendation.~~ recommendation. ~~The respondent may accept a settlement proposal communicated by the Board or submit an offer of settlement pursuant to A.A.C. R4-1-114(A)(4). If a settlement is reached, respondent may execute a consent order in lieu of formal disciplinary proceedings by the Board pursuant to A.R.S. §32-741.~~

R4-1-115.01. Law Review Advisory Committee

- A. The Board may appoint an advisory 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~~ the 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~~ A registrant's satisfaction of CPE requirements; and
 3. ~~Applications for exemption from CPE requirements under A.R.S. §32-730.~~ A registrant's compliance with disciplinary orders requiring CPE.
- B. The Board, in its discretion, may accept, reject, or modify the recommendations of ~~this~~ the advisory committee.

R4-1-115.03. Peer Review Oversight Advisory Committee

- A. The Board ~~shall~~ may appoint an advisory committee to monitor and conduct the peer review program. Upon appointment the committee shall:
 1. Advise the Board on matters relating to the peer review program;
 2. Report to the Board on effectiveness of the peer review program;
 3. Provide the Board with a list of firms that have ~~participated in~~ met the peer review requirements;-
 4. Update the Board on the status of participating firms' ~~compliance~~ noncompliance with the requirements of R4-1-454;
 5. ~~Recommend to the Board procedures and standards for fulfilling its role, including phase in procedures for imple-~~

- menting the peer review program and minimum standards for performing and reporting on peer review;
65. Maintain documents in a manner that preserves the confidentiality of persons, including information; pertaining to a specific business organization, ~~that~~ which may be disclosed to the committee during the course of its business; and
 76. Report to the Board and obtain approval of any modification to the peer review program; and
 8. ~~Assess all applications of review teams and national organizations participating in the peer review program and make recommendations regarding Board approval or denial of the applications.~~

B. The Board ~~shall~~ may accept, reject, or modify recommendations of the Peer Review Oversight Advisory Committee.

~~R4-1-116~~R4-1-115.04. Certification 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~~ Uniform Certified Public Accountant Examination and for certification of certified public accountants.
- B. The Board, in its discretion, may accept, reject, or modify the advisory recommendation in determining the qualifications of applicants.

R4-1-116. Renumbered

R4-1-117. Procedure: Witnesses; Service

- A. Pleadings; depositions; briefs; and related documents: A party shall print or type all pleadings, depositions, briefs, and related documents and; use only one side of the paper.
- B. Witness' depositions: If a party wants to take the oral deposition of a witness residing outside the state, the party shall file with the Board a petition for permission to take the deposition stating the name and address of the witness and ~~setting forth~~ describing in detail the nature and substance of the testimony expected to be given by the witness. The petition may be denied if the testimony of the witness is not relevant and material. 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 party applying to the Board for permission to take a deposition shall bear the expense of the deposition.
- C. Witness' interrogatories: ~~Any A~~ Any A 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 a copy of the interrogatories and a statement showing the name and address of the witness. The adverse party may file in duplicate cross-interrogatories with a copy of the statement within 10 days following ~~the service upon on~~ the service upon the adverse party. ~~Any A~~ Any A party ~~who that~~ who objects to the form of an interrogatory or cross-interrogatory may file a statement of the ~~objections~~ objection with the Board within five days after ~~the~~ the service of the interrogatories or cross-interrogatories; and may suggest to the Board any amendment to an interrogatory or cross-interrogatory. The Board may amend, add, or strike out an interrogatory or cross-interrogatory when ~~in its judgment~~ the Board determines it is proper to do so.
 1. Notwithstanding the fact that a party may petition for permission to take the oral deposition of a witness, the Board may require that the information be provided through written interrogatories and vice versa.
 2. A party shall provide a A copy of answers to the interrogatories ~~shall be filed with to~~ shall be filed with to the Board within 45 days after the interrogatories ~~have been~~ are answered.
- D. Subpoenas: The Board officer; presiding at a hearing; may authorize 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 A~~ Any A party desiring the Board to issue a subpoena for the production of evidence, documents or to compel the appearance of a witness at a hearing shall apply for ~~it the subpoena~~ it in writing stating the substance of the witness's testimony. If the testimony appears to be relevant and material ~~and necessary~~, the Board shall issue the subpoena. ~~The affixing of~~ Affixing the seal of the Board and the signature of a Board officer is sufficient to show that the subpoena is genuine. The party applying for the subpoena shall bear the expense of service.
- E. Service:
 1. Service of any decision, order, subpoena, notice, or other paper document may be made personally in the same manner as a summons served in a civil action. If a paper document is served ~~in this manner~~ personally, service is deemed complete at the time of delivery.
 2. Except as provided in subsection (E)(5), 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 envelope in the United States mail, with first-class postage prepaid, addressed to the party, at the address last provided to the Board.
 3. Service by mail is deemed complete when the paper document to be served is deposited in the United States mail. If the distance between the place of mailing and the place of address is more than 100 miles, service is deemed complete one day after the deposit of the paper document for each 100 miles. ~~In any event, service is deemed complete within to a maximum of six days after the date of mailing.~~
 4. In computing time, the date of mailing is not counted. All intermediate Sundays and holidays are counted, ~~but, if~~ but, if the last day falls on a Sunday or a holiday, that day is not counted and service is considered completed on the next business day.

Notices of Proposed Rulemaking

5. The Board shall mail each notice of hearing and final decision by certified mail to the last known address reflected in the records of the Board.
6. Service ~~upon on~~ attorney~~s~~; Service ~~upon on~~ an attorney who has appeared for a party constitutes service ~~upon on~~ the party.
7. Proof of service~~s~~; A party shall demonstrate proof of service by filing an affidavit, as provided by law, proof of mailing by certified mail, or an affidavit of first-class mailing.

R4-1-118. Specified Forms Repealed

- ~~A. Applications; certificates, registrations: All applications, certificates, and registrations shall be on forms prescribed by the Arizona State Board of Accountancy.~~
- ~~B. The forms are available from the Board Office upon request and require the following information, where applicable: Applicant/registrant name, previous name, and alias; address, telephone number, birth place, birth date, social security number, and special accommodations required because of disability; employer name, address, and telephone number; personal data, citizenship, sex, race, height, weight, eyes, hair, fingerprints, and photograph; examination, education, and work history; criminal history and authorization for investigation; affirmation of truthfulness and references; confirmation of prior certified public accountant certification or other occupational or professional certificates and status of certification; military service, continuing professional education reports; and accounting firm partners'/shareholders'/members' names, addresses, and telephone numbers.~~

ARTICLE 2. CPA EXAMINATION

R4-1-226.01. Applications; Examination - Computer-based

- ~~A. A person desiring to take the examination Uniform Certified Public Accountant Examination for qualification as a certified public accountant shall who is qualified under A.R.S. § 32-723 may apply ~~on~~ by submitting an initial application. A person whose initial application has already been approved by the Board to sit for the uniform CPA exam may apply by submitting an application for re-exam.~~ an application form provided by the Board, indicating the section or sections of the examination the person intends to take. The Board shall provide the applicable form for initial examination or re-examination. The applicant shall submit the application form to the Board office with a registrar-certified, or equivalent, university or college transcript to confirm that the educational requirement in A.R.S. §32-723 is completed.
- ~~B. Filing date: An applicant shall file the application form and pay the fee required in subsection (C) during the Board's normal business hours.~~
 - ~~1. After the Board approves the applicant to sit for the examination, the Board shall issue an Authorization to Test (ATT) to permit the applicant to take a specified section or sections of the examination. The ATT for the specified section or sections of the examination is effective on the date of issuance and expires upon issuance of a new ATT for the same section or sections, attainment of a passing score on every section or sections specified on the ATT, expiration of a Notice to Schedule (NTS), or failure to pay the fee required under subsection (C)(4).~~
 - ~~2. At the time of application and during the time any ATT issued by the Board is open, the applicant shall not have an open ATT for the same section or sections in any other state or jurisdiction.~~
 - ~~3. After the applicant remits the fee required in subsection (C)(4), the Board shall issue an NTS to the applicant. If the applicant fails to comply with subsection (C)(4), an NTS will not be issued, the issued ATT expires, and the applicant shall apply anew to obtain another ATT for the specified section or sections.~~
 - ~~4. An NTS enables an applicant to schedule testing at an examination test center. The NTS is effective on the date of issuance and expires when the applicant schedules testing for all sections specified in the ATT or six months from the date of issuance, whichever occurs first.~~
 - ~~5. If an applicant does not pass a section of the examination under an existing ATT, the applicant shall not schedule testing for that section until the applicant obtains a new ATT for the section from the Board.~~
- ~~C. Application fees: Each applicant shall pay the examination fee, required under A.R.S. § 32-729, in the following amount:~~
 - ~~1. Initial applicant: For an initial examination, if the applicant has not previously filed an application for examination in Arizona, \$100 at the time of application.~~
 - ~~2. Re-take applicant: For an applicant who has previously filed an application for examination in Arizona, \$50 at the time of application.~~
 - ~~3. Out-of-state candidates: Any candidate who applies through a state other than Arizona, but sits for the examination in Arizona, shall pay the fee specified in subsection (C)(1) at the time of application.~~
 - ~~4. In addition to the applicable fee in subsection (C)(1), (C)(2), or (C)(3), within 90 calendar days of the date an ATT is issued, the applicant shall remit the fee required for an NTS to the National Association of State Boards of Accountancy.~~
 - ~~5. Refunds:~~
 - ~~a. The Board shall refund half of the examination fee paid under subsection (C)(1), (C)(2), or (C)(3) to an applicant who makes a written request and shows good cause for a refund. Examples of good cause include permanent or partial disability, illness, physical or mental condition, military service, or financial hardship that prevents the~~

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

- applicant from appearing for the examination.
- b. ~~Except as provided in subsection (C)(5)(a), an examination fee is forfeited by an applicant who withdraws an application for examination after an ATT is issued.~~
- ~~D. The Board shall accept or reject an application or fee as provided by law and shall not hold an application or fee for a future examination.~~
- ~~E. This rule applies on the date that the Board implements the computer-based examination.~~
- ~~1. The requirements for initial application for examination are:~~
- ~~a. A completed application for initial examination.~~
- ~~b. A \$100 initial application fee if:~~
- ~~i. The applicant has not previously filed an application for initial examination in Arizona~~
- ~~ii. The Board administratively closed a previously submitted application~~
- ~~iii. The applicant has been previously denied by the Board.~~
- ~~c. University or college transcripts to verify that the applicant meets the educational requirements and if necessary for education taken outside the United States an additional course-by-course evaluation from a foreign transcript evaluation service that is a member of either the National Association of Credential Evaluation Services or the Association of International Credential Evaluators.~~
- ~~2. The requirements for application for re-examination are:~~
- ~~a. A completed application for re-examination.~~
- ~~b. A \$50 re-examination application fee~~
- ~~B. Within 30 days of receiving an initial application, board staff shall notify the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what information is missing. The applicant has 30 days from the date of the Board's letter to respond to the Board's request for additional information or the Board or its designee may administratively close the file. An applicant whose file is administratively closed and who later wishes to apply shall reapply under subsection A1.~~
- ~~C. The Board's certification advisory committee (CAC) shall evaluate the applicant's file and make a recommendation to the Board to approve or deny the application. The CAC may defer a decision on the applicant's file to a subsequent CAC meeting to provide the applicant opportunity to submit any information requested by the CAC that the CAC believes is relevant to make a recommendation to the Board. The applicant has 30 days from the date of the Board's letter to respond to the CAC's request for additional information or the Board or its designee may administratively close the file. If the CAC recommends approval, the application shall be put on a future board meeting agenda for consent. If the CAC recommends denial, the application will be put on a future board meeting agenda and the CAC shall provide the Board with the reasons for the recommendation of denial.~~
- ~~D. If the Board approves the application, the Board shall notify the applicant in writing and send an authorization to test (ATT) to the National Association of State Boards of Accountancy (NASBA) to permit the applicant to take the specified section(s) of the examination for which the applicant applied. If the Board denies the application, the Board shall notify the applicant in writing the reasons the application was denied.~~
- ~~E. If the applicant does not timely pay to the NASBA the fees owed for the examination section(s) for which the applicant applied, the ATT expires. An applicant that still wishes to take a section(s) of the Uniform CPA exam shall submit an application for re-examination under subsection (A)(2).~~
- ~~F. After an applicant has paid NASBA, NASBA shall issue a notice to schedule (NTS) to the applicant. A NTS enables an applicant to schedule testing at an approved examination center. The NTS is effective on the date of issuance and expires when the applicant sits for all sections listed on the NTS or six months from the date of issuance, whichever occurs first. Upon written request to the Board and showing good cause that prevents the applicant from appearing for the examination, an applicant may be granted by the Board a one-testing-window extension to a current NTS.~~
- R4-1-228. Examination Results Scores; Review and Processing of Grades and Papers Appeal of Scores**
- ~~A. Grade results of the examination The National Association of State Boards of Accountancy (NASBA) shall be mailed mail or email examination scores to each candidate applicant based upon the applicant's contact preference on the grade release date established by the American Institute of Certified Public Accountants.~~
- ~~B. Examination papers; grades scores~~
- ~~1. A candidate An applicant may request a score review of the candidate's examination answers by the American Institute of Certified Public Accountants by submitting a written request to the Board by submitting NASBA'S CPA Examination Score Review form to NASBA.~~
- ~~2. A candidate An applicant may file request an appeal to review examination questions that were answered incorrectly by submitting a written request to the Board by submitting NASBA's CPA Examination Score Appeal form to NASBA.~~
- ~~C. Examination papers; destruction: The Board may, in its discretion, destroy examination papers after the time frame set forth in A.R.S. §32-723(E) has expired.~~

R4-1-229. Condition Conditioned Credit

- ~~A. Requirements. A candidate is 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 two or more but not all sections, the Board grants the candidate condition credit for those sections passed and the candidate need not retake those sections provided:~~
- ~~1. The candidate wrote all sections of the examination at that sitting;~~
 - ~~2. The candidate attained a minimum grade of 50 on each section not passed at that sitting;~~
 - ~~3. The candidate passes the remaining sections of the examination within six consecutive examinations given after the one at which the first sections were passed;~~
 - ~~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 subsequent sitting, the candidate attains a minimum grade of 50 on sections written but not passed at that sitting.~~
- ~~A. An applicant is allowed to sit for each section individually and in any order.~~
- ~~1. An applicant is given conditioned credit for each section of the examination passed. A conditioned credit is valid for 18 months.~~
 - ~~2. The applicant shall not retake a failed section in the same examination window. An examination window is the three-month period in which the applicant has an opportunity to take an examination section(s).~~
- ~~B. Transfer of condition conditioned credit. The Board shall give a candidate an applicant credit for all sections of an examination passed in another state jurisdiction if the credit has been conditioned if credit would have been given, under the then applicable requirements, had the candidate taken the examination in this state. If a candidate an applicant transfers condition conditioned credit from another state jurisdiction, as provided in A.R.S. §32-723(G), the candidate applicant shall pass the remaining sections of the examination within three years or within six consecutive examinations following the date the candidate received the condition credit in the other state the 18-month period from the date that the first section was passed. An applicant who fails to pass all sections of the Uniform CPA Exam within 18 months shall retake previously passed sections of the Uniform CPA Exam to ensure passage of all sections within an 18-month period.~~
- ~~C. Upon implementation of the computer-based examination, a candidate is allowed to sit for each section individually and in any order.~~
- ~~1. The candidate shall pass all four sections of the examination within any 18-month period that begins on the date that the first section is passed. If the candidate does not pass all four sections within the 18-month period, the candidate may continue to take the examination, but is required to retake any section passed earlier than 18 months from the date that the last section is passed.~~
 - ~~2. The Board shall give the candidate conditional credit for any section passed for 18 months from the date the candidate passes that section. This credit is retained regardless of any score on failed sections and without regard to whether the candidate takes other sections.~~
 - ~~3. The candidate shall not retake a failed section in the same examination window. An examination window is the three-month period in which the has an opportunity to take the examination.~~
- ~~D. Upon implementation of the computer-based examination, the Board shall give conditional credit for any section a candidate has passed under subsection (A).~~
- ~~1. The candidate will have 18 months from the implementation date of the computer-based examination to pass every remaining section. If the candidate does not pass every remaining section, the candidate will lose credit for any section passed before the implementation date of the computer-based examination.~~
 - ~~2. Notwithstanding subsection (D)(1) any section passed after implementation of the computer-based examination will be retained as prescribed in subsection (C).~~

ARTICLE 3. CERTIFICATION AND REGISTRATION

R4-1-341. CPA Certificates; ~~by Examination Reinstatement~~

- ~~A. Upon passing all parts of the examination prescribed by A.R.S. §32-723(C) in accordance with R4-1-229, a candidate An applicant who is qualified under A.R.S. §32-721 may apply for a certificate of certified public accountant or for reinstatement by submitting the following to the Board:~~
- ~~1. A completed application packet;~~
 - ~~2. An application fee in the amount of \$100.00; and~~
 - ~~3. Proof of a passing score on an examination in professional ethics within the two years immediately preceding submission of the application.~~
- ~~B. An applicant shall submit:~~
- ~~1. An application packet that includes, but is not limited to, the following information and documents:~~
 - ~~a. A completed application form signed by the applicant and notarized;~~
 - ~~b. The applicant's personal data and photograph;~~
 - ~~e. Scores from the examination prescribed by A.R.S. §32-721(A)(2);~~

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

- d. ~~Education and work history;~~
 - e. ~~University or college transcripts, verifying that the applicant meets the educational requirements of A.R.S. §32-721;~~
 - f. ~~Employment verification, including proof of compliance with the experience requirements of A.R.S. §32-721;~~
 - g. ~~References and letters of recommendation;~~
 - h. ~~Authorization for investigation; and~~
 - i. ~~Affirmation of truthfulness; and~~
2. ~~Other information or documents required by the Board to determine compliance with the eligibility requirements of A.R.S. §32-721.~~
 1. An application fee of \$100; and;
 2. For an applicant applying for certification under A.R.S. § 32-721(A) and (B), a completed application packet, including:
 - a. Verification that the applicant passed the Uniform CPA Examination.
 - b. Verification that the applicant meets the education and experience requirements specified in R4-1-343.
 - c. One signed and dated letter of recommendation by a CPA.
 - d. Proof of a score of at least 90% on the American Institute of Certified Public Accountants (AICPA) examination in professional ethics taken within the two years immediately before the application is submitted.
 - e. Evidence of lawful presence in the United States, and
 - f. Other information or documents requested by the Board to determine compliance with eligibility requirements.
 3. For an applicant applying for certification under A.R.S. § 32-721(A) and (C), a completed application including:
 - a. Verification that the applicant passed the Uniform CPA Examination.
 - b. License verification from each jurisdiction in which the applicant has ever been issued a certificate as a certified public accountant of which at least one must be an active certification from a jurisdiction with requirements determined by the Board to be substantially equivalent to the requirements in A.R.S. § 32-721(B) or verification that the applicant meets the education and experience requirements specified in R4-1-343.
 - c. Evidence of lawful presence in the United States, and
 - d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
 4. For an applicant applying for certification under A.R.S. § 32-721(A) and (D) for mutual recognition agreements adopted by the Board a completed application including:
 - a. Verification that the applicant has passed the International Qualification Examination (IQEX).
 - b. License verification from the applicant's country which has a mutual recognition agreement with the National Association of State Boards of Accountancy that has been adopted by the Board;
 - c. Evidence of lawful presence in the United States, and
 - d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
 5. For an applicant applying for reinstatement from cancelled or expired status under A.R.S. §§ 32-730.02 or 32-730.03 respectively a completed application including:
 - a. CPE that meets the requirements of R4-1-453(C)(6) and (E) and
 - b. Evidence of lawful presence in the United States
 6. For an applicant applying for reinstatement from revoked or relinquished status under A.R.S. §§ 32-741.03, 32-741.04 respectively a completed application including:
 - a. CPE that meets the requirements of R4-1-453(C)(6) and (E).
 - b. Evidence of lawful presence in the United States,
 - c. If not waived by the Board as part of a disciplinary order, evidence from an accredited institution or a college or university that maintains standards comparable to those of an accredited institution that the individual has completed at least one hundred fifty semester hours of education as follows:
 - i. At least 36 semester hours are accounting courses of which at least 30 semester hours are upper level courses.
 - ii. At least 30 semester hours are related courses.
 - d. If prescribed by the Board as part of a disciplinary order, evidence that the individual has retaken and passed the Uniform Certified Public Accountant Examination.
- EB.** Within 30 days of receiving an application package under, the Board shall notify the applicant that the package application is either complete or incomplete. If the package application is incomplete, the notice shall specify what information is missing.
1. The Board shall make Service service of any written notice regarding an incomplete application shall be completed in accordance with R4-1-117(E)(1); or (2), and (3). Pursuant to R4-1-455.03(F), the The applicant has 30 days from the date of the notice to respond in writing to the Board's notice request for additional information. If the applicant fails to timely respond to the Board's request, or the Board may administratively close the file. An applicant whose file has been is administratively closed and who later wishes to become certified, shall apply anew reapply under subsection A.

Notices of Proposed Rulemaking

2. Within 60 days of receipt of all the missing information, the Board shall notify the applicant that the application package is complete.
3. ~~The Board shall not process an application for certification until the applicant has fully complied with the requirements of this Section.~~
43. The Board shall issue a certification decision no later than 150 days after receipt of a completed application package. ~~The date of receipt is the postmark date of the notice advising the applicant that the package is complete.~~
54. If the Board finds deficiencies during the substantive review of the application, the Board may issue a written request to the applicant for additional information.
65. The 150-day time-frame in subsection (B)(3) for a substantive review for the issuance of a certificate is suspended from the date of the written request for additional information ~~made under pursuant to subsection (C)(5) (B)(4)~~ until the date that all information is received. ~~The Board shall serve a Service of any written notice request under subsection (B)(4) shall be completed in accordance with R4-1-117(E)(1); or (2); and (3). Pursuant to R4-1-455.03(F), the applicant~~ The applicant has 30 days to respond to the Board's request for additional information. If the applicant fails to timely respond to the Board's request, the Board shall finish its substantive review based upon the information the applicant has presented.
76. When the applicant and the Board mutually agree in writing, the substantive review ~~time frame~~ time frame specified in subsection (B)(3) may be extended in accordance with A.R.S. § 41-1075.

DC. ~~When~~ If the Board denies an applicant's request for certification, the Board shall send the applicant written notice explaining:

1. The reason for denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a fair hearing to challenge the denial; and
3. The time periods for appealing the denial.

ED. The Board establishes the following licensing time-frames for the purpose of A.R.S. § 41-1073:

1. Administrative completeness review time-frame: 30 days;
2. Substantive review time-frame: 150 days; and
3. Overall time-frame: 180 days.

R4-1-342. CPA Certificates, by Reciprocity Repealed

A. ~~Application:~~ A person applying for a certificate as a certified public accountant in Arizona on the basis of a certificate in good standing issued by another state, pursuant to A.R.S. § 32-724, shall submit the following to the Board:

1. A completed application packet; and
2. An application fee in the amount of \$100.00.

B. An applicant shall submit:

1. An application packet that includes, but is not limited to, the following information and documents:
 - a. A completed application form, signed by the applicant and notarized;
 - b. Verification that the applicant has passed the examination prescribed by A.R.S. § 32-721(A)(2);
 - e. Documentation that demonstrates the applicant has the qualifications required by A.R.S. § 32-726;
 - d. License verification from each jurisdiction in which the applicant has ever been issued a certificate as a certified public accountant;
 - e. Authorization for investigation; and
 - f. Affirmation of truthfulness; and
2. Other information or documents required by the Board to determine compliance with the eligibility requirements of A.R.S. § 32-724.

C. The provisions in R4-1-341(C), (D), and (E) apply to applicants seeking certification by reciprocity.

R4-1-343. Education and Accounting Experience

A. Definitions. For the purpose of demonstrating the education and experience requirements of A.R.S. § 32-721, the following definitions apply:

1. "Employed" means engaged in providing accounting services to an employer, clients or other third parties.
2. "Full time" means employed and providing accounting services at least 30 hours per week.
3. "Examining" means the critical inquiry and analysis of financial or accounting information, which may include balance sheets, income statements, cash flow statements, and tax returns.
4. "Reporting" means to express an opinion on the results of an examination of financial statements by oral or written communication to an employer, clients, or other third parties.
5. "Upper level course" means course taken beyond the basic level, after any required prerequisite or introductory accounting course and does not include principles of accounting or similar introductory accounting courses.

BA. Certificate of experience. To demonstrate compliance with the experience requirements of A.R.S. § 32-721(B), an applicant for certification by exam or grade transfer shall submit to the Board:

1. One or more certificates of experience, completed, signed and dated by an individual who:

- a. ~~possesses~~ Possesses personal knowledge of the applicant's work, and
 - b. ~~is~~ Is able to confirm the applicant's accounting experience, and
 - ~~ac.~~ Is a certified public accountant; or
 - ~~bd.~~ Has accounting education and experience similar to that of a certified public accountant; ~~and~~ and
2. Other information ~~required~~ requested by the Board for explanation or clarification of experience.
- B.** To demonstrate compliance with the experience requirements of A.R.S. § 32-721(C), an applicant for certification by reciprocity shall submit to the Board:
1. One or more certificates of experience, completed, signed and dated by an individual who:
 - a. Possesses personal knowledge of the applicant's work, and
 - b. Is able to confirm the applicant's accounting experience, and
 - c. Is a certified public accountant; or
 - d. Has accounting education and experience similar to that of a certified public accountant; or
 2. If the applicant is self employed, the applicant shall provide a signed and dated statement indicating self employment and three signed and dated client letters, confirming years of work experience, and.
 3. Other information requested by the Board for explanation or clarification of experience.
- C.** To demonstrate compliance with the education requirements of Title 32, Chapter 6, an applicant for certification or reinstatement shall submit to the Board:
1. University or college transcripts verifying that the applicant meets the educational requirements and if necessary for education taken outside the United States, an additional course-by-course evaluation from a foreign transcript evaluation service that is a member of either the National Association of Credential Evaluation Services or the Association of International Credential Evaluators, and.
 2. Other information requested by the Board for explanation or clarification of education.

R4-1-344. Denial of Certification

An applicant who is denied certification or registration by the Board is entitled to ~~have~~ a hearing before the Board or an ALJ.

1. Written application: The applicant shall file a notice of appeal ~~pursuant to~~ under A.R.S. § 41-1092.03 within 30 days after receipt of the notice of denial.
2. Hearing notice: The Board shall provide the applicant with notice of the hearing in the manner prescribed by A.R.S. § 41-1092.05.
3. Conduct of hearing: The Board or the ALJ shall conduct the hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10 and applicable rules governing hearings.
4. Burden of proof: At the hearing, the applicant is the moving party and has the burden of proof.
5. Matters limited: At the hearing, the Board or ALJ shall limit the issues to those originally presented to the Board.

R4-1-345. Registration; Fees; ~~Certificate~~ Renewal

- A.** Initial registration: A registration fee is due when a new certificate is issued or when a new firm is registered by the Board. The initial registration fee is prorated for registration periods of less than two years. After the Board approves an applicant's request for certification or firm registration, the applicant shall file an application for initial registration in a format prescribed by the Board and pay a registration fee under subsection C.
- B.** Renewal registration: All registrants, individuals, and firms shall register biennially by filing with the Board the appropriate completed registration form specified in R4-1-118 and pay the registration fee prescribed by this Section. A registrant shall file the appropriate form an application for renewal registration in a format prescribed by the Board no later than 5:00 p.m. on the last business day of the month. A renewal registration is deemed filed on the date and time received in the Board Office office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the board's office. The Board shall not accept a postmark as evidence of timely filing. It is the sole responsibility of the registrant to complete the renewal registration requirements at the following times:
1. Individual registrant: An individual registrant shall register renew registration at the following times:
 - a. A registrant born in an even-numbered year shall register renew registration during the month of birth in each even-numbered year.
 - b. A registrant born in an odd-numbered year shall register renew registration during the month of birth in each odd-numbered year.
 2. Firms registrant: A firm shall register renew registration at the following times:
 - a. A firm that initially registered with the Board in an even-numbered year shall register renew registration during the board-approved month of the initial registration in each even-numbered year.
 - b. A firm that initially registered with the Board in an odd-numbered year shall register renew registration during the board-approved month of the initial registration in each odd-numbered year.
- C.** Registration fees for an individual: The biennial registration fee is:
- a. \$300 and, if applicable, a late fee of \$50 for each certified public accountant and, each public accountant is \$300 per registration period. For a certified public accountant or public accountant, The the registration fee shall be

Notices of Proposed Rulemaking

prorated by month for an initial registration period of less than two years.

- b. ~~\$300 and, if applicable, a late fee of \$50 for a firm. Under A.R.S. § 32-729, the Board shall not charge a fee for the registration of additional offices of the same firm or for the registration of a sole practitioner.~~

~~D. Registration fees for a firm: The biennial registration for each certified public accountant or public accountant firm is \$300 per registration period.~~

~~ED. Penalty and suspension for failure to register: If a registrant's certificate is suspended for nonregistration under A.R.S. § 32-741.01 and remains in a suspended status for more than six months, the registrant must return their certificate to the Board.~~

~~1. The penalty for failure to register and pay a registration fee as provided in this Section is suspension of the registrant's registration. The Board shall vacate a suspension under this Section when the registrant has paid:~~

~~a. All past due registration fees;~~

~~b. A \$25 late fee; and~~

~~c. \$25 for each full year the registrant failed to register, total payment not to exceed \$950 \$975.~~

~~2. If a suspension under subsection (E)(1) continues for more than six 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 under A.R.S. § 32-741(C).~~

~~F. A registrant who is granted inactive status shall not provide accounting services for a fee, or other form of compensation, including:~~

~~1. Recording and summarizing financial transactions;~~

~~2. Analyzing and verifying financial information;~~

~~3. Reporting financial results to an employer, client, or other party; and~~

~~4. Rendering tax and management advisory services.~~

R4-1-346. Notice of Change of Address

A. Within 30 days of any business, mailing, or residential change of address, a registrant shall notify the Board of the new address in a letter signed by the registrant by filling out the change of address form prescribed by the Board.

B. Within 30 days of the opening of any new or additional office, or the closing of any existing office, a registrant shall notify the Board in a letter signed by the registrant.

ARTICLE 4. REGULATION

R4-1-453. Continuing Professional Education

~~A. "Continuing professional education," "CPE," or "continuing education" means attendance at classes, authorship of articles, conducting or teaching courses, and self-study courses if they contribute to the maintenance and improvement of professional competence in accounting.~~

~~BA. Measurement Standards. The Board shall use the following standards to measure the hours of credit given for CPE programs completed by an individual registrant.~~

~~1. A class hour shall consist of a minimum of 50 continuous minutes of instruction and a half class hour shall consist of a minimum of 25 continuous minutes of instruction. CPE credit shall be given ~~for whole class hours only~~ in half-hour increments for periods of not less than one class hour. ~~The Board shall give one CPE credit hour for each class hour of instruction.~~ Credit shall not be allowed for repeat participation in any seminar or course during the registration period.~~

~~2. Courses taken at colleges and universities apply toward the CPE requirement as follows:~~

~~a. Each semester-system credit hour is worth 15 CPE credit hours,~~

~~b. Each quarter-system credit hour is worth 10 CPE credit hours, and~~

~~c. Each noncredit class hour is worth one CPE credit hour.~~

~~3. Each correspondence program hour is worth one 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 Board shall determine the amount of credit on the basis of actual presentation hours, and ~~up to one additional hour of actual~~ shall allow CPE credit for preparation time ~~for each hour of that is less than or equal to the presentation hours.~~ A registrant may only claim as much preparation time as is actually spent for a presentation. Total credit earned under this subsection for service as a lecturer or discussion leader, including preparation time may not exceed 40 credit hours of the renewal period's requirement. Credit is limited to only one presentation of any seminar or course with no credit for repeat teaching of that course.~~

~~5. Writing and publishing articles or books that contribute to the accounting profession may be counted for a maximum of 20 hours of CPE credit during each renewal period.~~

~~a. Credit may be earned for writing accounting material not used in conjunction with a seminar if the material addresses an audience of certified public accountants, is at least 3,000 words in length, and is published by a recognized third-party publisher of accounting material or a sponsor.~~

~~b. For each 3,000 words of original material written, the author may earn two credit hours. Multiple authors may share credit for material written.~~

6. A registrant may earn a combined maximum of 40 hours of CPE credit under subsections (B)(4) and (5) above during each renewal period.
7. A registrant may earn a maximum of 20 hours of CPE during each renewal period by completing introductory computer-related courses. Computer-related courses may qualify as ~~management advisory~~ consulting services pursuant to subsection ~~(D)~~ (C), ~~if they meet the provisions of subsection (C)(1).~~

CB. Programs ~~Which~~ that Qualify. CPE credit may be given for a program that provides a formal course of learning at a professional level and contributes directly to the professional competence of participants.

1. ~~Qualified programs~~ The Board shall accept a CPE course as qualified if it:
 - a. ~~Be Is~~ developed by persons knowledgeable and experienced in the subject matter;
 - b. ~~Provides~~ Provides written outlines or full text;
 - c. ~~Be Is~~ administered by an instructor or organization knowledgeable in the program content; and
 - d. ~~Utilize~~ Uses teaching methods consistent with the study program.
2. ~~Correspondence programs~~ The Board shall accept a correspondence program which includes online or computer based programs, will qualify, if they meet the provisions above and if the sponsors maintain written records of each student's participation and records of the program outline for three years following the conclusion of the program.
3. ~~Notwithstanding the foregoing, an~~ An ethics program taught or developed by an employer or co-worker of a registrant does not qualify for the ethics requirements of subsection ~~(D)~~ ~~(5)~~ (C)(4).

DC. Hour Requirement. As a prerequisite to registration pursuant to A.R.S. § 32-730(C) or to reactivate from inactive status pursuant to A.R.S. § 32-730.01, a registrant shall complete the CPE requirements during the two-year period immediately before registration as specified under subsections (D)(C)(1) through (D)(9)(C)(5) as applicable. For registration periods of less than two years CPE may be prorated, with the exception of ethics.

1. A registrant whose last ~~renewal~~ registration period was for two years shall complete 80 hours of CPE ~~during the two-year period immediately preceding registration renewal.~~
2. A registrant who has been certified for less than two years shall complete ~~10 hours of CPE for every three months registered before registration renewal.~~
3. A registrant who neither resides nor practices accounting in Arizona is required to fulfill Arizona's CPE requirements before registration renewal.
4. A registrant shall complete a minimum of 50% percent of the required hours in the subject areas of accounting, auditing, taxation, business law, or ~~management advisory consulting~~ services with a minimum of 16 hours in the subject areas of accounting, auditing, or taxation. ~~If a registrant has been certified for less than two years, the Board shall reduce the required hours on a prorated basis.~~
5. A registrant shall complete a minimum of 16 ~~hours~~ of the required hours:
 - a. in a classroom setting, ~~or~~
 - b. through an interactive live webinar, ~~or~~
 - c. by acting as a lecturer or discussion leader, including college courses during the two-year period immediately preceding registration renewal. ~~If a registrant has been certified for less than two years, the Board shall reduce the required hours on a prorated basis.~~
6. A registrant shall complete four hours of CPE in the subject area of ethics ~~during the two-year period immediately preceding registration renewal.~~ The four hours required by this subsection shall include a minimum of one hour of each of the following subjects:
 - a. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants; and
 - b. Board statutes and administrative rules.
7. A registrant who is retired, is age 60 or more, 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.
8. ~~An applicant 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 hours. CPE hours used to meet the reinstatement requirement may not be used to meet the CPE hour requirements 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 hours required for re-registration.~~
9. ~~An applicant for reinstatement following the suspension of a certificate, other than that described in subsection (D)(8), shall complete the 80 hour requirement for registration. The CPE hours used to meet the reinstatement requirement may not be used to meet the CPE hour requirements for the next biennial registration. For purposes of this subsection, an applicant whose suspension was for reasons other than nonregistration and whose suspension has extended beyond two registration periods (four years) is not required to report more than 160 hours of CPE.~~
10. The Board may grant a partial or complete exemption from the CPE requirements 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 that prevented the individual registrant from completing the CPE requirements.

Notices of Proposed Rulemaking

- ~~H5.~~ A registrant shall report total CPE hours completed during for the registration renewal period. Hours that exceed the number required for the current registration renewal period may not be carried forward to a subsequent registration renewal period. Any CPE hours completed to vacate a suspension for non-registration or for noncompliance with CPE requirements may not be used to meet CPE requirements for the registration period.
6. As a prerequisite to reactivate from retired status or reinstate from cancelled, expired, relinquished or revoked status, an applicant shall complete up to 160 hours of CPE during the four-year period immediately before application to reactivate or reinstate. For periods of less than four years CPE may be prorated, with the exception of ethics.
- a. An applicant shall complete a minimum of 50 percent of the required hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 32 hours in the subject areas of accounting, auditing or taxation.
- b. An applicant shall complete a minimum of 32 hours of the required hours:
- i. In a classroom setting,
- ii. Through an interactive live webinar, or
- iii. By acting as a lecturer or discussion leader in a CPE program, including college courses.
- c. An applicant shall complete eight hours of CPE in the subject area of ethics. The eight hours required by this subsection shall include a minimum of one hour of each of the following subjects. The following subjects shall be completed during the two-year period immediately preceding application for reactivation or reinstatement:
- i. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants; and
- ii. Board statutes and administrative rules.
- ED.** Reporting: An applicant for reinstatement ~~or renewal~~ or, a registrant who is subject to an audit, or a registrant completing their registration must report the following details about their completed CPE may provide a signed statement, certifying under penalty of perjury, that the applicant or registrant has completed the CPE requirements. This statement shall list:
1. Sponsoring organization;
 2. Location of program; Number of CPE credit hours
 3. Title of program or description of content; and
 4. Dates attended.
- E.** In addition to the information required under subsection D, an applicant for reinstatement from cancelled, expired, relinquished or revoked status, or a registrant subject to a CPE audit pursuant to paragraph G shall provide evidence of completed CPE as required to be maintained by paragraph F.
- F.** CPE Record Retention: A registrant shall maintain for three years from the date their registration application was dated as received by the Board and provide the Board upon request the following documents: course outlines; and certificates of completion that include registrant's name, course provider or sponsor, course title, credit hours, and date of completion; proof of attendance or participation, and written proof of completion.
- G.** CPE audits: The Board, at its discretion, may conduct audits of a registrant's CPE and require that the registrant provide the CPE records, that the registrant is required to maintain under paragraph F to verify compliance with CPE requirements.
- H.** The Board may grant a full or partial exemption from CPE requirements on demonstration of good cause for a disability for only one registration period.
- R4-1-454. Peer Review**
- A.** Effective for registrations on or after January 1, 2005, each ~~Each~~ firm, as defined in A.R.S. § 32-701(8)(14), that performs restricted financial services ~~attest services~~ or full disclosure compilation services shall ~~complete~~ have a peer review ~~performed and reported on~~ within the three years immediately preceding the firm's registration date.
1. A firm shall submit to the Peer Review Oversight Advisory Committee (PROAC) a peer review report and any additional, related documentation requested by the ~~Peer Review Oversight Advisory Committee~~ PROAC. The PROAC shall not require the submission of working papers related to the peer review process.
 2. A firm with a registration date that falls on January 1, 2005, or any date up to and including June 30, 2006, shall submit the initial peer review report by June 30, 2006.
 3. A firm with a registration date after June 30, 2006, shall submit the peer review report on the registration date with other renewal documents.
42. The Board shall ~~may~~ grant, upon a written request and demonstration of good cause, ~~excluding financial hardship pursuant to A.R.S. § 32-701(15)(E),~~ an extension of time for completing the peer review or submitting the peer review report to the Board. ~~Good cause may include illness, disability, military service, natural disaster, or any other circumstance beyond the control of the firm that prevents the firm from timely completing a peer review.~~
- B.** Beginning January 1, 2005, if ~~If~~ the only services performed by a firm involving financial statements are nondisclosure compilation services, the Board shall request, on a random basis, as a condition for initial or renewal registration, that the firm provide a peer review report and any additional, related documentation, completed within the three years immediately preceding the firm's registration date.

1. If a firm did not complete a peer review within the three years immediately preceding the firm's registration date, PROAC shall request that the firm provide reports and financial statements from two separate nondisclosure compilation engagements, performed within the two years immediately preceding the firm's registration date, for an Educational Enhancement Review by PROAC;
 2. If the results of the Educational Enhancement Review indicate deficient work by a firm, the Board may do any of the following:
 - a. Educate the firm by informing it of or referencing it to the current and appropriate reporting requirements;
 - b. Educate the firm by informing it how to enhance its reporting and financial presentation; or
 - c. Require the firm to undergo peer review before its next renewal registration.
 3. If the results of the Educational Enhancement Review do not indicate deficient work, the PROAC shall recommend to the Board that it accepts the firm's Educational Enhancement Review and that the firm be notified of its compliance with this Section.
- C.** Only a peer reviewer or a review team approved by the Board or its authorized agent may conduct a peer review. In approving a peer reviewer or a review team, the Board or its authorized agent shall ensure that each peer reviewer or member of a review team holds a certificate or license in good standing to practice public accounting, and is not affiliated with the firm under review.
- D.** A firm may obtain a peer review and the corresponding report from a national organization approved by the Board or its authorized agent. In approving a national organization, the Board shall determine whether the organization performs peer reviews that comply with this Section.
- E.** The PROAC shall review the peer review report submitted by a firm to determine whether the firm is complying with the standards in subsection (J). If the results of peer review indicate that a firm is complying with the standards in subsection (J), the PROAC shall recommend to the Board that it accept the firm's peer review and that the firm be notified of its compliance with this Section.
- F.** If the results of peer review indicate that a firm is not complying with the standards in subsection (J):
1. The Board shall direct the ~~Peer Review Oversight Advisory Committee~~ PROAC to obtain relevant reports ~~and letters of comment~~, and perform any follow-up action required as a consequence of the identified deficiencies. The PROAC shall retain all documents obtained until the firm completes and the Board accepts the firm's next peer review.
 2. If additional information is needed to determine whether a firm is correcting identified deficiencies, the Board shall make a written request that the firm provide the needed information. If the PROAC determines that the firm has not corrected the identified deficiencies, it shall refer the matter to the Board.
 3. Based upon review of the ~~Committee's~~ PROAC's recommendation, the Board may take disciplinary action as defined in A.R.S. § 32-701~~(6)~~(10).
- G.** Information discovered solely as a result of a peer review is not grounds for suspension or revocation of a certificate.
- H.** Failure of a firm to complete a peer review under this Section constitutes grounds for revocation or suspension of a certificate, after notice and opportunity for a hearing, unless the Board determines that there is good cause for the failure.
- I.** Exemptions: A firm is exempt from the requirements of this Section if the firm submits to the Board a written statement that it meets at least one of the following grounds for exemption:
1. The firm has not previously practiced public accounting in this state, any other state, or a foreign country and the firm ~~will undergo a peer review~~ shall have a peer review issued by a qualified peer reviewer and dated within 18 months of initial registration.
 2. The firm submits to the Board an affidavit, on a form prescribed by the Board, that states that all of the following apply:
 - a. Within the previous three years, the firm did not undertake any engagement that resulted in the firm issuing a ~~restricted financial services~~ attest services, full-disclosure, or non-disclosure compilation;
 - b. The firm agrees to notify the Board within 90 days after accepting a ~~restricted financial services~~ an attest services, or full-disclosure compilation services engagement and ~~will undergo a peer review~~ shall have a peer review issued by a qualified peer reviewer and dated within 18 months from the year-end of the engagement accepted; and
 - c. The firm agrees to notify the Board within 90 days after accepting a nondisclosure compilation engagement.
- J.** Firms that reorganize a current firm, rename a firm, or create a new firm, within which at least one of the prior CPA owners remains an owner or employee, shall remain subject to the provisions of this section.
- ~~**K.**~~ Each firm, review team, and member of a review team shall comply with the Standards for Performing and Reporting on Peer Reviews, published ~~June 1, 2005~~ January 1, 2009 by the American Institute of Certified Public Accountants, New York, New York 10036-8775 (www.aicpa.org), which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board's office.
- ~~**L.**~~ Peer review record retention. A firm shall maintain for five years, and provide the Board upon request, the following documents for the peer reviews required by this Section: peer review report, final acceptance letter, letter of comment, corrective action, and letter of response.

Notices of Proposed Rulemaking

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

- A. Independence: ~~Certified~~ A certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm of which ~~they are partners or shareholders~~ the certified public accountant or public accountant is a partner or shareholder shall not express an opinion on ~~a financial statements~~ statement of an enterprise unless ~~they~~ the certified public accountant or public accountant and ~~their firms~~ the firm are independent with respect to the enterprise. Independence is considered to be impaired if, for example:
1. During the period of ~~their~~ the professional engagement; or at the time of expressing ~~their~~ an opinion, ~~they~~ the certified public accountant or public accountant or ~~their firms~~ the firm:
 - a. Had or ~~were~~ was committed to acquire any direct or material indirect financial interest in the enterprise;
 - b. Had any joint closely held business investment with the enterprise or any officer, director, or principal stockholder of the enterprise, ~~which that~~ was material in relation to ~~their~~ the certified public accountant, public accountant, or the firm's net worth; or
 - c. Had any loan to or from the enterprise or any officer, director, or principal stockholder of the enterprise. This latter proscription does not apply to the following loans from a financial institution ~~when~~ if the loans are made under normal lending procedures, terms, and requirements:
 - i. Loans obtained by ~~a~~ a certified public ~~accountants~~ accountant or public ~~accountants~~ accountant or ~~their firms~~ the firm ~~which that~~ are not material in relation to the net worth of the borrower;
 - ii. Home mortgages; and
 - iii. Other secured loans, except loans that would unsecured if not guaranteed by ~~a~~ a certified public ~~accountants'~~ accountant's ~~accountant's~~ firm ~~which are otherwise unsecured~~.
 2. During the period covered by the financial ~~statements~~ statement, during the period of the professional engagement, or ~~at the time of~~ when expressing an opinion, ~~they or their firms~~ the certified public accountant, public accountant or firm:
 - a. ~~Were~~ Was connected with the enterprise as ~~promoters, underwriters or voting trustees, directors or officers~~ a promoter, underwriter, or voting trustee, director, or officer, or in any capacity equivalent to that of a member of management or of an employee; or
 - b. ~~Were~~ Was a trustee of any trust or ~~executors or administrators~~ executor or administrator of any estate if the trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise; or ~~were~~ was a trustee for any pension or profit-sharing trust of the enterprise.
 3. The above examples are not intended to be all-inclusive.
- B. Integrity and objectivity: ~~A Certified~~ A certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm 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, ~~a~~ a certified public ~~accountants~~ accountant or public ~~accountants~~ accountant may resolve doubt in favor of ~~their~~ a client as long as there is reasonable support for ~~their~~ the position.
1. Contingent fees: A contingent fee is a fee established for the performance of any service ~~pursuant to~~ under 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~~ For purposes of this ~~rule~~ Section, ~~the~~ 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 practice of public accounting shall not for a contingent fee for any client:
 - i. Perform an audit or review of a financial statement;
 - ii. Prepare a compilation of a financial statement when the certified public accountant, public accountant, or firm expects, or reasonably should expect, that a third party will use the financial statement and the certified public accountant, public accountant, or firm's compilation report does not disclose a lack of independence;
 - 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 prohibitions in subsection (B)(1)(a) apply during the period in which the certified public accountant, public accountant, or firm is engaged to perform any of the services listed 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, public accountant, or firm engaged in 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, public accountant, or firm also performs any of the following for that client:
 - i. An audit or review of a financial statement;

- ii. A compilation of a financial statement when the certified public accountant, public accountant, or firm expects, or reasonably ~~might~~ should expect; that a third party will use the financial statement and the certified public accountant, public accountant, or firm's compilation report does not disclose a lack of independence; or
- iii. An examination of prospective financial information.
- d. The prohibitions in subsection (B)(2)(c) apply during the period in which the certified public accountant, public accountant, or firm is engaged to perform any of the services listed 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, public accountant, or firm engaged in the practice of public accounting ~~who that~~ is not prohibited by this ~~rule~~ Section from performing services 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~~ The certified public accountant, public accountant, or firm shall ensure that the written disclosure shall be is made to any person or entity to ~~whom~~ whom ~~which~~ the certified public accountant, public accountant, or 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~~ A certified public accountant, public accountant, or firm that accepts a referral fee for recommending or referring ~~any~~ a 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: ~~A Certified~~ certified public ~~accountants~~ accountant or public ~~accountants~~ accountant who ~~are~~ is engaged in the practice of public accounting shall not concurrently engage in any business or occupation ~~which that~~ impairs their the objectivity of the certified public accountant or public accountant in rendering professional services.

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

- A. Competence: ~~Registrants~~ A registrant shall not undertake ~~any an~~ an engagement for the performance of ~~to perform~~ professional services ~~which they that the registrant~~ cannot reasonably expect to complete with due professional competence, including compliance, where applicable, with subsections (B) and (C).
- B. Auditing standards: ~~Registrants~~ A registrant shall not permit ~~their names~~ the registrant's name to be associated with a financial ~~statements~~ statement in such a manner as to ~~imply that implies~~ that they ~~are~~ the registrant is acting with independence with respect to the financial ~~statements~~ statement unless they ~~have~~ the registrant has complied with applicable generally accepted auditing standards.
- C. Accounting principles: ~~Registrants~~ A registrant shall not express an opinion that a financial ~~statements are~~ statement is presented in conformity with generally accepted accounting principles if the financial ~~statements contain~~ statement contains any departure from ~~the an~~ an accounting principle ~~which that~~ has a material effect on the financial ~~statements~~ statement taken as a whole, unless the ~~registrants~~ registrant can demonstrate that by reason of unusual circumstances ~~that~~ the financial ~~statements~~ statement would otherwise ~~have been be~~ misleading. In ~~such this~~ case, the ~~registrants' reports~~ registrant's report shall describe the departure ~~from an accounting principle~~, the approximate effects of the departure, if practicable, and the reasons why compliance with the principle would result in a misleading statement.
- D. Accounting and review standards: ~~Certified~~ A certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm shall not permit ~~their names~~ the certified public accountant, public account, or firm's name to be associated with ~~an~~ unaudited financial ~~statements~~ statement or other unaudited financial information of a non-public entity in a manner ~~which may imply that implies~~ they ~~are~~ the certified public accountant, public accountant, or firm is acting as ~~an~~ independent ~~accountants~~ accountant unless they ~~have~~ the certified public accountant, public accountant, or firm has complied with all applicable standards for accounting and review services.
- E. Forecasts and projections: ~~Certified~~ A public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm shall not permit ~~their names~~ the certified public accountant, public accountant, or firm's name to be used in conjunction with any forecast of future transactions in a manner ~~which that~~ may lead to the belief that the certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm ~~vouch~~ firm vouches for the achievability of the forecast or projection.
- F. In expressing an opinion on representations; in a financial ~~statements~~ statement ~~which they have~~ that the certified public accountant, public accountant, or firm has examined, a certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm ~~have violated~~ firm violates A.R.S. § 32-741(A)(4) if they ~~the~~ the certified public accountant, public accountant, or firm:
 - 1. ~~Fail~~ Fails to disclose a known material fact ~~known to them which that~~ makes the financial ~~statements~~ statement misleading;
 - 2. ~~Fail~~ Fails to report ~~any a known~~ material misstatement ~~known to them to appear that appears~~ in the financial statement;
 - 3. ~~Are~~ Is materially negligent in the conduct of ~~their~~ the examination or in making ~~their~~ a report on the examination;
 - 4. ~~Fail~~ Fails to acquire sufficient information to warrant expression of an opinion, or ~~their~~ the exceptions are sufficiently material to negate the expression of an opinion; or

Notices of Proposed Rulemaking

5. ~~Fail~~ Fails to direct attention to any material departure from a generally accepted accounting ~~principles~~ principle or disclose any material omission of a generally accepted auditing procedure applicable under the circumstances.
 6. The provisions of ~~this subsection~~ subsection (F) are not intended to be all-inclusive or to limit the application of A.R.S. § 32-741(A)(4).
- G.** Tax practice standards: ~~A Certified~~ certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm shall exercise due diligence in the conduct of ~~their~~ tax practices, ~~and the~~ The Board shall view the current standards ~~set forth~~ in the American Institute of Certified Public Accountants Statements on Responsibilities in Tax Practice ~~shall to~~ pre-sumptively represent due diligence.
- H.** Standards: The application of standards such as “generally accepted accounting principles,” “generally accepted auditing standards,” and “applicable standards for accounting and review services” by a certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm 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. The Board considers 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 to be persuasive sources for interpretation of the standards. Persons who take positions that depart from the official statements shall be prepared to justify them.

R4-1-455.02. Professional Conduct: Confidentiality; Records Disposition

- A.** Confidential client information: ~~A Certified~~ certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm shall not disclose ~~any~~ confidential information obtained in the course of a professional engagement except with the consent of the client. This ~~rule~~ requirement shall not be construed to:
1. Relieve a certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm of ~~their obligation~~ the obligations under R4-1-455.01(B) and (C);
 2. Affect ~~in any way their~~ the certified public accountants, public accountants, or firm’s compliance with a validly issued subpoena or summons enforceable by order of a court;
 3. Prohibit review of a certified public ~~accountants’~~ accountants, public ~~accountants’~~ accountants, or ~~firms’~~ firm’s professional practices as a part of ~~any~~ a peer or quality review ~~pursuant to~~ conducted under Board decision or authority; or
 4. Preclude a certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm from responding to ~~any an~~ inquiry made by the Board under state statutes.
- B.** Records disposition responsibility: ~~A Certified~~ certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm shall furnish to ~~their~~ a client, or former client, upon request, within a reasonable time after original issuance:
1. A copy of any tax returns prepared for the client;
 2. A copy of any reports, or other documents, that were previously issued to the client; and
 3. Any accounting or other records belonging to the client ~~which they or their firm that the certified public accountant, public accountant, or firm may have had occasion to remove~~ removed from the client’s premises, or ~~to receive~~ received for the client’s account, ~~but this shall not preclude them from making copies. The certified public accountant, public accountant, or firm may make a copy of the documents when they if the documents form the basis for work done by them or their firm~~ the certified public accountant, public accountant, or firm.

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

- A.** Discreditable acts: ~~A Certified~~ certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm shall not commit ~~any an~~ act that reflects adversely on ~~their~~ the certified public accountants, public accountants, or firm’s fitness to engage in the practice of public accounting, including:
1. ~~Violation of any of the provisions~~ Violating a provision of R4-1-455 through R4-1-455.04;
 2. ~~Violation of~~ Violating a fiduciary duty or trust relationship with respect to any person; or
 3. ~~Violation of any of the provisions~~ Violating a provision of A.R.S. Title 32, Chapter 6, Article 3, or ~~any rule promulgated under these statutes~~ this Chapter.
- B.** Advertising practices: ~~A Certified~~ certified public ~~accountants~~ accountant, public ~~accountants~~ accountant, or ~~firms~~ firm ~~have~~ has violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting in connection with the communication or advertising of public accounting services through any media, if ~~those~~ accountants ~~the certified public accountant, public accountant, or firm~~ willfully engage ~~engages~~ in any of the following conduct:
1. ~~Employ any~~ Employs a device, scheme, or artifice to defraud;
 2. ~~Make any~~ Makes an untrue statement of material fact or ~~fail~~ fails to state ~~any~~ a material fact necessary to make the ~~statements made~~ statement not misleading;
 3. ~~Engage~~ Engages in any advertising ~~which that~~ would operate as a fraud or deceit;
 4. ~~Violate~~ Violates A.R.S. § 44-1522 and a court finds the violation willful;
 5. ~~Engage~~ Engages in fraudulent or misleading practices in the advertising of public accounting services ~~which that~~ leads to a conviction pursuant to A.R.S. § 44-1481; or

6. ~~Engage~~ Engages in fraudulent practices in the advertising of public accounting services ~~which that~~ leads to a conviction for a violation of any other state or federal law.
- C. Solicitation practices: ~~A Certified certified public accountants accountant, public accountants accountant, or firms have firm has~~ violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting; in connection with the direct or indirect personal solicitation of public accounting services; if ~~those accountants the certified public accountant, public accountant, or firm~~ willfully ~~engage engages~~ in any of the following ~~conduct~~:
1. ~~Violate any of the provisions~~ Violates a provision of R4-1-455.03(B); or
 2. ~~Engage Engages~~ 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. ~~A Certified certified public accountants accountant or public accountants accountant~~ may practice public accounting, whether as ~~an owners owner or employees employee~~, only in a firm as defined in A.R.S. § 32-701(8).
 2. A certified public accountant or public accountant shall not 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,” “& Associates,” or “& Consultants” unless the terms refer to additional full-time CPAs that are not otherwise mentioned in the firm name.
- E. Acting through others: ~~A Certified certified public accountants accountant or public accountants accountant~~ shall not knowingly permit others to carry out on ~~their behalf of the certified public accountant or public accountant~~, either with or without compensation, acts which, if carried out by the ~~certified public accountant or public accountant~~, would ~~place them in violation of any of the provisions violate a provision~~ of R4-1-455 through R4-1-455.04.
- F. Communications: When requested, ~~a certified public accountants accountant or public accountants accountant~~ shall respond to communications from the Board within 30 days ~~of the mailing of such after the~~ communications is mailed by registered or certified mail.

R4-1-455.04. Professional Conduct: Interpretations

~~The Board shall find interpretations~~ Interpretations of the Code of Professional Conduct adopted by the American Institute of Certified Public Accountants ~~shall be~~ persuasive but not conclusive in the Board’s interpretations of R4-1-455 through R4-1-455.03.

R4-1-456. Reporting Practice Suspensions and Violations

- A. ~~All registrants, individuals and firms~~ A registrant, individual, or firm shall report to the Board:
1. Any suspension or revocation of the right to practice accounting before the federal Securities and Exchange Commission, the Internal Revenue Service, or any other state or federal agency;
 2. Any final judgment in a civil action or administrative proceeding ~~where in which~~ the court or public agency makes findings of violations, by the registrant, of any fraud provisions of the laws of this state or of federal securities laws;
 3. Any final judgment in a civil action ~~where in which~~ the court makes findings of accounting violations, dishonesty, fraud, misrepresentation, or breach of fiduciary duty by the registrant;
 4. Any final judgment in a civil action involving negligence in the practice of public accounting by the registrant; and
 5. All convictions of the registrant of any felony, or any crime involving accounting or tax violations, dishonesty, fraud, misrepresentation, embezzlement, theft, forgery, perjury, or breach of fiduciary duty.
- B. ~~The A registrant, individual, or firm required to report required~~ under this ~~rule must be~~ subsection (A) shall make the report in the form of a written letter and ensure that the report is received by the Board within 30 days ~~of after~~ the entry of any judgment or suspension or revocation of the registrant’s right to practice before any agency. ~~Such letter~~ The registrant, individual, or firm shall contain a ensure that the letter contains the following information:
1. ~~description~~ Description of the registrant’s activities ~~which that~~ resulted in a suspension or revocation;
 2. ~~final~~ Final judgment or conviction; ~~the~~
 3. ~~name~~ Name of the state or federal agency ~~which has that~~ restricted the registrant’s right to practice;
 4. ~~the effective~~ Effective date and length of any practice restriction;
 5. ~~the case~~ Case file number of any court action, civil or criminal; ~~and the~~
 6. ~~name~~ Name and location of the court rendering a the final judgment or conviction; ~~and the~~
 7. ~~entry~~ Entry date of ~~any the~~ final judgment or conviction.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 36. DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 3481.) The Governor's Office authorized the notice to proceed through the rulemaking process on July 18, 2013.

[R13-189]

PREAMBLE

- 1. Articles, Parts, or Sections Affected (as applicable)** **Rulemaking Action**
R4-36-401 Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. § 36-1609(A)
Implementing statute: A.R.S. §§ 36-1601 through 32-1610
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
Notice of Rulemaking Docket Opening: 19 A.A.R. 2824, September 13, 2013
- 4. The agency's contact person who can answer questions about the rulemaking:**
Name: Holly Textor
Address: Department of Fire, Building and Life Safety
1110 W. Washington St., Suite 100
Phoenix, AZ 85007
Telephone: (602) 364-1009
Fax: (602) 364-1052
E-mail: holly.textor@dfbls.az.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
During the first regular session, the 51st Legislature enacted HB 2461, updating the 2006 NFPA 1124 code to the 2013 edition as published in August, 2012. Therefore, the State Fire Marshal is promulgating rules to conform to the changes in A.R.S. § 36-1609(A).
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not Applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**
These rules incorporate by reference the NFPA 1124 code from the 2006 edition to the 2013 edition as specified by the legislature, and will have minimal economic impact.
- 9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**
Name: Holly Textor
Address: Department of Fire, Building and Life Safety
1110 W. Washington St., Suite 100
Phoenix, AZ 85007
Telephone: (602) 364-1009
Fax: (602) 364-1052

E-mail: holly.textor@dfbls.az.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding regarding the proposed rules will be held as follows:

Date: Tuesday, December 10, 2013

Time: 9:00 a.m.

Location: 1110 W. Washington St.
Room 145
Phoenix, AZ 85007

The rulemaking record will close at 5:00p.m. on Friday, December 13, 2013

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not Applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The rule incorporates, but is not more stringent than, the following federal laws:

Child Safety Act of 1966

Title XI, "Regulation of Explosives, of the Crime Control Act of 1970," 1970.

Title 16, Code of Federal Regulations, Part 1500 and Part 1507, U.S. Consumer Product Safety Commission.

Title 18, United States Code, Chapter 40, "Importation, Manufacture, Distribution, and Storage of Explosive Materials," 1970

Title 27, Code of Federal Regulations, Part 555, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice

Title 29, code of Federal Regulations, Part 1910.1200, "Hazard Communication,; U.S. Department of Labor.

Title 49, Code of Federal Regulations, Part 100 to end, U.S. Department of Transportation.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis comparing the rule's impact of competitiveness of business in the state to the impact on business in other states has been submitted as of the date of this Notice of Proposed Rulemaking.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail sales of Fireworks and Pyrotechnic Articles, 2013 Edition, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471 or www.nfpa.org is incorporated at R4-36-401

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 36. DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY

ARTICLE 4. PERMISSIBLE CONSUMER FIREWORKS

Section
R4-36-401. Material Incorporated by Reference

ARTICLE 4. PERMISSIBLE CONSUMER FIREWORKS

R4-36-401. Material Incorporated by Reference

Notices of Proposed Rulemaking

As required by A.R.S. § 36-1609(A), the State Fire Marshal incorporates by this reference NFPA 1124, Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles, ~~2006~~ 2013 edition effective August 29, 2012, which is published by the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02169-7471 and is available from NFPA at www.nfpa.org and the Office of the State Fire Marshal. The incorporated material does not include a later amendment or edition but is modified as specified in R4-36-402.