

ADMINISTRATIVE RULES  
FOR THE BOARD OF PUBLIC ACCOUNTANCY

Effective: 7 August 2009  
Cite as: "Accountancy Rule \_\_\_\_"

**PART 1.**  
**INTRODUCTION**

1.1 THE BOARD'S PURPOSE

The Board of Public Accountancy (the "Board") sets standards for issuing licenses, regulates the practice of public accounting within the State of Vermont and protects the public by enforcing Vermont professional conduct laws. Title 26, Chapter 1 contains the Board's enabling statutes.

1.2 BUSINESS LOCATION

The Board's mailing address is:

Vermont Board of Accountancy  
Office of Professional Regulation  
National Life Bldg. North, Floor 2  
Montpelier, Vermont 05620-3402.

The Board's business location is the Secretary of State's office, National Life Bldg. North, 2<sup>nd</sup> Floor, Montpelier, Vermont 05620-3402. (the "Office").

Copies of these rules and other applicable statutes are found at <http://vtprofessionals.org>

1.3 APPLICABLE LAW

The Vermont Board of Public Accountancy is authorized by and responsible for implementing Title 26 V.S.A., Chapter 1. Laws that govern the Board include the following: Administrative Procedure Act (3 V.S.A. §§801-849), the Right to Know Law (1 V.S.A. §§311-314), Access to Public Records Law (1 V.S.A. §§315-320) and the Office of Professional Regulation enabling statutes (3 V.S.A. §§121-131). Law libraries and most Town Clerk's Offices maintain volumes of the Vermont Statutes Annotated. The Board posts the most recent statutes and administrative rules governing the practice of the profession at [www.vtprofessionals.org](http://www.vtprofessionals.org) and <http://vtprofessionals.org/opr1/accountants/>.

## 1.4 REGULATIONS

These administrative rules are promulgated pursuant to 26 V.S.A. §54. These rules represent the law governing Board proceedings. In revising these regulations, the Board shall follow the provisions of the Administrative Procedure Act.

## **PART 2 DEFINITIONS**

### 2.1 STATUTORY DEFINITION ADOPTED

Unless otherwise indicated, all words and phrases used in these regulations shall have the same meaning as the terms are defined in 26 V.S.A. §13.

### 2.2 TERMS USED IN THESE RULES

(A) For purposes of these regulations the following terms have the meanings indicated:

- (1) "Act" means Title 26, Vermont Statutes Annotated, Chapter 1, Accountants.
- (2) "Advertising" includes print, television or radio ads of any type, internet, World Wide Web or electronic media displays of any variety, stationary, business cards, signs and other audio, visual or print notices or depictions related to professional services.
- (3) "AICPA" means the American Institute of Certified Public Accountants.
- (4) "Attest" means providing the following financial statement services:
  - i. any audit or other engagement to be performed in Accordance with the Statements on Auditing Standards (SAS);
  - ii. any review of a financial statement or compilation of a financial statement to be performed in accordance with the Statement on Standards for Accounting and Review Services (SSARS); and
  - iii. any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE).
  - iv. any engagement to be performed in accordance with the standards of the Public Company Accounting Oversight Board (PCAOB) or its successor institution.
- (5) "Client" means the person or entity that agrees with a licensee or registered firm to receive professional services.
- (6) "Compilation of financial statements" means presenting in the form of financial statements information that is the representation of management or owners without undertaking to express any assurance on the statements in conformity with SSARS.

- (7) "Contingent fee" is a fee based on the result of a service. It is a fee obtained pursuant to a specified finding or result attained by the licensee. This definition does NOT include fees set by courts or other public authorities. A court ordered fee based on the results of judicial or government agency proceedings is NOT a contingency fee for purposes of these rules.
- (8) "CPA" means Certified Public Accountant holding a license pursuant to 26 V.S.A. §71a or §72b.
- (9) "CPE" means continuing professional education.
- (10) "Enterprise" means any person or entity, whether organized for profit or not, for which a licensee performs professional services.
- (11) "Examination" means the Uniform Certified Public Accountant Examination.
- (12) "Financial statements" means statements and footnotes related thereto that undertake to present an actual or anticipated financial position as of a point in time, or results of operations, cash flow, or changes in financial position for a period of time in conformity with U.S. generally accepted accounting principles or another comprehensive basis of accounting. The term does not include incidental financial data included in management advisory services reports to support recommendations to a client, nor does it include tax returns and supporting tax form schedules.
- (13) "Firm" means a sole proprietorship, a corporation, a partnership, association, or any other entity that practices public accountancy. Whenever it is appropriate within these rules to have them apply to a firm these rules shall be interpreted as applying to a firm.
- (14) "NSA" means National Society of Accountants.
- (15) "One year of public accounting experience" means 2,080 hours of employment.
- (16) "Opinion on financial statements" means an opinion expressed in accordance with U.S. generally accepted auditing standards as to whether the presentation of information used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private, or governmental, is in conformity with U.S. generally accepted accounting principles or some other comprehensive basis of accounting.
- (17) "Partner" includes an equity owner of any firm.
- (18) "Partnership" includes any firm.
- (19) "Place of business" means a place that is regularly accessible by customers or clients and functions as a normal business location.
- (20) "Practicing accountant" means a certified public accountant or registered public accountant, including those practicing on a temporary basis from other jurisdictions.

- (21) "Professional services" means any service a licensee performs or offers to perform for a client in the course of the practice of public accountancy.
- (22) "Public bookkeeping" means the rendering of record keeping services, which are not the practice of public accountancy.
- (23) "Regularly employed" means working one day a week, or more, within the state on a regular basis.
- (24) "Report" when used with reference to financial statements, means an opinion, report or other communication that states or implies assurance to the reliability of a financial statement and includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. A statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when the form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing the language; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.
- (25) "Review of financial statements" means performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with U.S. generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting in conformity with SSARS.
- (26) "RPA" means a Registered Public Accountant holding a license.
- (27) "Semester hours" means the conventional college semester hours. Quarter hours may be converted to semester hours by multiplying them by two-thirds.
- (28) "Standards" means any reference to U.S. Generally Accepted Accounting Principles (GAAP), Generally Accepted Auditing Standards (GAAS) or other comprehensive basis of accounting and refers to those standards promulgated in the United States of America.
- (29) "V.S.A." means Vermont Statutes Annotated.

### **PART 3: PROHIBITIONS**

#### **3.1 ISSUANCE OF A REPORT**

No report as defined herein shall be issued without the firm registration number or temporary registration number appearing somewhere on the report.

#### **3.2 PUBLIC BOOKKEEPING AND TAX SERVICE; SAFE HARBOR LANGUAGE**

- (A) Nothing in the Act prohibits individuals, partnerships or corporations from rendering public bookkeeping or tax services.
- (B) The following language may accompany the transmittal of financial information in order to conform with the Act:
  - (1) (I/we) have prepared as a bookkeeping service the following financial statement(s) [insert name(s) of statement(s)].
  - (2) (I am/we are) not licensed by the State of Vermont to express an opinion or any other assurance or representation on the financial information transmitted herewith.

#### **3.3 INJUNCTION AGAINST UNLAWFUL PRACTICE**

Whenever, in the judgment of the Board, a person is engaged or is about to engage in the unlawful practice of the profession of accountancy in violation of 3 V.S.A. § 127, the Board may ask the office of professional regulation to prosecute immediately an action against the person, in a court of competent jurisdiction, in order to protect the public.

### **PART 4: STATE BOARD OF PUBLIC ACCOUNTANCY**

#### **4.1 BOARD MEETINGS**

An annual meeting of the Board shall be held each year and other meetings shall be held as deemed appropriate to conduct the business of the Board. Meeting dates are available from the office. The chairperson or any two members have the authority to call meetings of the Board. A majority of the board constitutes a quorum.

#### 4.2 ELECTION AND TENURE OF OFFICERS

At the annual meeting, the Board shall elect from among its members the chairperson, secretary, and other officers the Board may determine appropriate. The officers shall assume their duties at the conclusion of the annual meeting at which they were elected. They shall serve a term of one year, and be eligible for reelection.

#### 4.3 FEES

Application, licensing and renewal fees are established by statute. A current fee schedule may be obtained by writing to the office.

### **PART 5: INITIAL LICENSE TO PRACTICE**

#### 5.1 APPLICATIONS

- (A) License applications are processed pursuant to §§ 71a and 72b of the Act. License applicants shall use forms provided by the office. Upon receipt of the licensing fee and all information required of an applicant, the Board shall deem the application “filed.”
- (B) Applicants will have 8 years to complete the application process after passing the certified public accountant’s examination.

#### 5.2 RECOGNIZED COLLEGES AND UNIVERSITIES

- (A) For purposes of §§ 71a, and 72b of the Act, the Board will recognize a two or four year degree-granting college or university in the United States which, at the time the applicant's credits were received , was regionally accredited by bodies approved by the Council on Postsecondary Accreditation and the United States Department of Education; in Canada, held a membership in the Association of Universities and Colleges of Canada; or in other countries, was accredited by the respective official organization having such authority. The Board may recognize other educational experiences in exceptional circumstances.
- (B) A current listing of accredited colleges and universities as recognized by the Board is contained in the "Accredited Institutions of Postsecondary Education" published by the American Council on Education for the Council on Postsecondary Accreditation.

#### 5.3 STUDIES IN ACCOUNTING, AUDITING AND BUSINESS

Studies in accounting, auditing and business shall include accounting, auditing, and business subjects at the college level, of not less than six semester hours in financial accounting (which may include managerial accounting but not elementary accounting),

three semester hours in auditing, three semester hours in United States income tax, and three semester hours in United States business law. Accounting, auditing, business, and other college level courses may be counted toward the total semester hours required. The Board may allow substitution of courses when an applicant can demonstrate that the course of study undertaken is fully equal to the course of study described above.

#### 5.4 APPLICATIONS FOR EXAMINATION

- (A) Applications to take the Examination must be made on a form obtained from the Board or its designee.
- (B) Except as provided in subsection (C), an application will not be considered filed until the application fee and examination fee required by the Act and all required supporting documents have been received.
- (C) Applicants whose course completion or graduation occurs within sixty days following the examination must file official transcripts not later than 120 days after the examination. Failure to file the required transcripts may void any conditional credit obtained.
- (D) An applicant who fails to appear for examination or reexamination shall forfeit the fees charged for the examination or reexamination. Application fees will not be refunded for any reason. Upon request, examination or reexamination fees may be refunded at the Board's discretion for hardship or other just cause.
- (E) Each applicant for examination shall submit with his or her application the required identification as required by the Board or its designee for identification purposes at the examination site.

#### 5.6 ETHICAL MANDATE

- (A) All candidates shall complete a course of study in professional ethics for accountants equivalent to eight hours of continuing professional education prescribed by or acceptable to the Board. In order to qualify under this section, candidates must complete an ethics course within two years of the filing date of the application. *See* Rule 5.1(A) for when an application is deemed "filed."
- (B) A candidate who engages in disorderly conduct or cheating during an examination may be prohibited from applying for reexamination or licensure for a period of five years.

## 5.7 PASSING GRADES

A passing grade for each subject shall be 75 as determined by a national recognized grading service approved by the Board. Upon review and for good cause shown, the Board may change any grade.

## 5.8 CONDITIONAL CREDIT FOR SECTIONS OF THE EXAMINATION PASSED

Candidates for computer-based examinations may (take each section of the exam individually and in any sequence and will retain credit for any section passed for eighteen months.

## 5.9 EXPERIENCE IN PUBLIC ACCOUNTING

- (A) An applicant shall obtain accounting experience under direct supervision of a certified public accountant or other licensee deemed equal by the National Association of State Boards of Accountancy reciprocity agreements. The experience shall include practical public accounting experience or its equivalent including a reasonable variety of experience.
- (B) Public accounting experience shall consist of a portfolio of experience of such non-routine accounting nature that continually requires independent thought and judgment on important accounting matters.

(1) Experience shall consist of the application of United States generally accepted accounting principles (GAAP) and the application of one or more of the following: generally accepted auditing standards (GAAS), standards of accounting and review services (SSARS), standards for accountants' services on prospective financial information, financial forecasts and projections, and other services subject to comprehensive sets of generally accepted professional standards issued by an appropriate standard setting body which the Board determines is equivalent. Examples of work qualifying under this section are:

- i. review and evaluation of internal control policies and procedures;
- ii. testing of compliance with control policies and procedures;
- iii. preparation of working papers in connection with elements of work accomplished;
- iv. planning, revision, or updating of audit programs to be followed;
- v. drafting or reviewing memoranda, conclusions, notes;
- vi. preparation and/or analysis of financial statements and reports;
- vii. performance of procedures for verification of transactions and balances; and
- viii. appropriate analytic review of accounts and comparison to industry data.

- (2) Experience may consist of the review and preparation of tax provisions and reserves including research for determination of tax provision and related reserves, research for determination of taxable earnings and profits, reconciliation of book to tax return adjustments, review of tax returns to determine adequacy of income tax reserves, analysis of tax positions taken in making judgments affecting tax provisions and reserves.
  - (3) Experience may consist of financial statement preparation from the books of account without audit and the preparation of related tax returns; performance of other related services requiring a knowledge of generally accepted accounting principles; tax related activities; review of financial projections; accounting for estates and fiduciaries; preparation of books of original entry, preparation of payrolls, checks, payroll tax reports, sales or similar tax returns, and posting of subsidiary ledgers.
  - (4) Experience may consist of design and installation of accounting, cost or other systems, when not related to an extension of auditing assignments and other management advisory services.
  - (5) If an applicant presents public accounting experience which satisfies the elements contained in 5.9(B)(2), (3), or (4), but not the elements included in 5.9(B)(1), the Board may consider a detailed evaluation of the applicant's portfolio of experience.
- (C) Non-public accounting experience shall consist of a portfolio of experience of such non-routine accounting nature that continually requires independent thought and judgment on important accounting matters.
- (1) The experience may have resulted in reports which comment on the financial condition and operating results of the agency or organization being audited and should be prepared for an executive function which does not have operating responsibility or control for the organization, department, division, or other entity being reported upon.
  - (2) The applicant's experience may include:
    - i. assessing the adequacy of the employer's internal controls by developing an understanding of the employer's transaction streams and information systems;
    - ii. tax return preparation and research, preparation and analysis of financial statements, cost accounting, budgeting and the application of accounting principles; and
    - iii. demonstrating a working understanding of the industry in which the applicant's employer operates, including the employer's competition and key competitiveness factors that affect the industry.

- (3) The Board shall consider whether:
- i. the applicant performed work resulting in opinions on financial statements or in reports on financial analyses or accounts;
  - ii. the applicant participated with an independent auditor who relied on the applicant's work, wholly or partially, in attesting to the entity's finances;
  - iii. the applicant performed substantial financial work, compliance work, systems design, or tax accounting;
  - iv. any limitations on scope, approach or work were imposed;
  - v. significant proportions of work consisted of field work as opposed to desk or office work;
  - vi. there was exposure to two or more types of industries;
  - vii. the work was of sufficient duration to permit meaningful involvement in the process; and
  - viii. the applicant's accounting duties required fiduciary responsibilities, or does the applicant treat accounting related duties as a fiduciary to a third party.
- (D) In order to qualify under this section, an applicant must attain the experience within fifteen (15) years of the filing date of a completed application. Applications are complete when filed in accordance with Rule 5.1.

#### 5.10 EVIDENCE OF APPLICANT'S EXPERIENCE

- (A) Licensees shall honor any reasonable applicant request to submit evidence to the Board of the applicant's experience.
- (B) Any licensee who has furnished evidence of an applicant's experience to the Board shall upon request by the Board explain in writing or in person the information so provided.
- (C) The Board may require inspection, by the Board or by its designee, of documentation relating to an applicant's experience.
- (D) Proof of experience must be submitted on a form provided by the Board.
- (E) Licensees submitting evidence of an applicant's experience must provide proof of holding a license in good standing as a CPA or equivalent license for the period of supervision.

## 5.11 ENDORSEMENT

An applicant to practice as a certified public accountant by endorsement must hold a license in good standing as a certified public accountant in a jurisdiction that has licensure requirements substantially equal to Vermont's.

- (A) An applicant by endorsement must provide the Board with a certificate of good standing from each jurisdiction where the applicant is licensed, and one photograph signed on the back before a notary public or similar public official.
- (B) Applicants by endorsement must provide proof of completing a four (4) hour professional ethics course for public accountants. The ethics course shall be completed within two years of filing the application.
- (C) After review of an application for endorsement, the Board will notify applicants in writing of its decision. If the Board denies a license application, it will inform the applicant of the specific reason(s). The Board will also inform applicants of any appellate rights afforded by Vermont law.
- (D) Meet the requirements of 1 V.S.A. §72b.

## **PART 6: REGISTRATION OF FIRMS**

### 6.1 APPLICATIONS

- (A) Applications by firms for initial registration pursuant to § 74 of the Act shall be made on a form provided by the Board. Applications will not be considered filed until the applicable fee is received.
- (B) A sole proprietor must apply for a firm registration.
- (C) Applications shall include the firm name, addresses and telephone numbers of the main office, of any branch office(s) of the firm in this state, the names of the partner(s) or, in the case of corporations or other business organizations, managers, shareholder(s), director(s) and officer(s) practicing in this state, and in the case of corporations a copy of the articles of incorporation and the by-laws.
- (D) Registrations must be renewed every two years.
- (E) Each firm shall be assigned a firm registration number.

## 6.2 NOTIFICATION OF CHANGES BY FIRMS

(A) A firm registered pursuant to these regulations shall file with the Board a written notification of any of the following events within thirty days after its occurrence:

- (1) admission of a partner or shareholder practicing within the State;
- (2) retirement or death of a partner or shareholder practicing within the State;
- (3) any change in the name of the firm;
- (4) termination of the partnership or corporation;
- (5) establishment of a new branch office or the closing or change of address of a branch office in this state; and
- (6) the occurrence of any event or events, which would cause such partnership or professional corporation or other entity not to be in conformity with the provision of the Act or these rules.

(B) Within thirty days of a firm changing its legal form, the new firm shall file an application for initial registration in accordance with section 6.1.

## **PART 7: TEMPORARY REGISTRATION**

### 7.1 TEMPORARY REGISTRATION

(A) Applications for temporary registration pursuant to § 74a of the Act shall be made on a form provided by the Board, and accompanied by the appropriate fee.

(B) Each application shall include:

- (1) the name and office address of each person who will be engaged in the performance of the engagement in this State.
- (2) evidence that each person performing work for the firm is licensed and in good standing in another jurisdiction to practice public accounting;
- (3) identification of the professional engagement to be performed pursuant to the temporary permit; and
- (4) Applicants performing attest functions within the State of Vermont must provide satisfactory evidence of a peer review in accordance with Rule 10.7.

### 7.2 TIME LIMITS

Temporary registrations expire three months after issuance. A firm may receive only one temporary registration per calendar year. Practicing more than three months in a calendar year requires licensure by endorsement.

## **PART 8: RENEWALS**

### **8.1 APPLICATION FOR RENEWAL OF LICENSURE AND FIRM REGISTRATION**

Application for renewal of licensure and firm registrations shall be made on a form provided by the Board.

- (A) Licenses renew on a fixed biennial schedule: July 31<sup>st</sup> of odd-numbered years. Initial licenses issued within 90 days of the renewal date will not be required to renew or pay the renewal fee. The license will be issued through the next full license period. Applicants issued a license more than 90 days prior to the renewal expiration date will be required to renew and pay the renewal fee.
- (B) Before the license expiration date, the Office will mail notice of the renewal fee and a renewal application to the address of record. A license will expire automatically if the application and fee are not returned to the office by the expiration date.
- (C) Applications for renewal of licenses shall be accompanied by evidence satisfactory to the Board that the applicant has complied with the CPE requirements under Part 9 of these rules.
- (D) Applications for renewal of firm registration shall be accompanied by evidence satisfactory to the Board that the applicant has complied with peer review requirements under Section 10.7 of these Rules.

### **8.2. REINSTATEMENT**

- (A) A lapsed license or firm registration may be reinstated within 90 days of expiration upon payment of the renewal fee and late renewal penalty and compliance with all other requirements for renewal.
- (B) After 90 days, a written request for reinstatement, the renewal form and the required fee must be filed with the Board. The request must demonstrate that the applicant has maintained professional competency, including the completion of continuing education as specified in Rule 9.1(C).
- (C) An applicant whose license has lapsed for more than ten years must file a new application for licensure and satisfy the initial licensure requirements of the Board or the endorsement requirements of the Board.

### 8.3 HARDSHIP EXCEPTIONS

The Board may, in its discretion, make exceptions to the requirements for renewal set out in the statute for reasons of individual hardship including health, military service, foreign residence, or other good cause.

## PART 9: CONTINUING PROFESSIONAL EDUCATION

### 9.1 CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS FOR RENEWAL OF LICENSES

- (A) A licensee seeking regular biennial renewal shall show that he or she has completed no fewer than 80 hours of continuing professional education during the two year period ending on the renewal date on a form provided by the Board (*see* rule 8.1(A)).
- (B) A licensee seeking renewal after an initial license period, not by endorsement, shall show that he or she has completed 40 hours of continuing professional education for each full year the license has been held during the two year period preceding renewal.
- (C) An applicant whose license has lapsed at the time of application for renewal shall have completed the continuing professional education hours required during the lapsed two year period immediately preceding the date of application for reinstatement.
- (D) An applicant may carryover from one biennium a maximum of ten continuing professional education hours. The carry over hours cannot be the required eight hours of auditing and accounting or the four hours of ethics.
- (E) In fulfilling these requirements, licensees must successfully complete at least four hours of continuing education in the subject area of ethics, which may include the AICPA Code of Conduct or Vermont accountancy statutes and rules.
- (F) Licensees must successfully complete at least eight hours of continuing education in the subject area of accounting and auditing.

### 9.2 PROGRAMS QUALIFYING FOR CONTINUING PROFESSIONAL EDUCATION CREDIT

- (A) Standards - A program meets board qualifications if it is a formal course of learning, which contributes to the growth of professional knowledge and competence of an individual in the practice of public accountancy, and meets the minimum standards of quality of development and presentation and of measurement and reporting of credits set forth in the National Registry of CPE Sponsors

published by the National Association of State Boards of Accountancy or similar educational standards as may be established from time to time by the Board.

(B) Subject Areas - Acceptable programs may deal with the following general subject areas:

- (1) accounting and auditing
  - (2) taxation
  - (3) management
  - (4) information technology
  - (5) ethics
  - (6) mathematics, statistics, probability and quantitative applications in business
  - (7) economics
  - (8) business law
  - (9) functional fields of business, including finance, production, marketing, personnel relations, and business management and organization
  - (10) specialized areas of industry (film industry, real estate, farming, etc.)
- Subjects other than those listed above may be acceptable if the applicant can demonstrate that they contribute to his or her professional competence as a CPA. The responsibility for demonstrating that a particular program is acceptable rests solely upon the applicant.

(C) Group Programs - Group programs such as the following are acceptable so long as they meet the standards specified in subsection (A) and deal with subjects referred to in subsection (B):

- (1) Professional education and development programs of national, state and local accounting organizations.
- (2) Technical sessions at meetings of national, state and local accounting organizations and their chapters.
- (3) University or college courses, both credit and non- credit.
- (4) Formal in-firm education programs.
- (5) Programs of other organizations (accounting, industrial, professional, etc.).
- (6) Committee meetings of professional societies, which are structured as formal educational programs.
- (7) Dinner, luncheon and breakfast meetings, which are structured as formal educational programs.
- (8) Firm meetings for staff or management groups, which are structured as formal education programs. Portions of such meetings devoted to the communication and application of general professional policy or procedure may qualify; but portions devoted to firm administrative, financial and operating matters generally will not qualify.

(D) Credit - continuing professional education credit will be given for whole hours only, with a minimum of fifty minutes constituting one hour. As an example, one hundred

- minutes of continuous instructions would count as two hours; however, more than fifty minutes but less than one hundred minutes of continuous instruction would count only as one hour. Only time spent in instruction, and not preparation time, will be credited. For university or college courses, each semester hour of credit shall equal fifteen hours toward the requirement, and a quarter hour of credit shall equal ten hours.
- (E) Correspondence and Formal Individual Study Programs - The amount of credit to be allowed for correspondence and formal individual study programs (including taped study programs) will be that which is recommended by the program sponsor. Applicants claiming credit for such correspondence or formal individual study courses are required to obtain evidence of satisfactory completion of the course from the program sponsor. Credit will be allowed in the renewal period in which the course is completed. Correspondence and formal individual study programs shall constitute no more than 64 hours or 80 percent of the applicable renewal period requirement.
- (F) Instructor, Discussion Leader, or Speaker - Applicants who have served as instructors, discussion leaders, and speakers at programs coming under subsections (A), (B) and (C) may claim continuing professional education credit for both preparation and presentation time. Credit may be claimed for actual preparation time up to two times the program or class contact hours. The maximum credit for such preparation and teaching is fifty percent of the applicable renewal period requirement. Credit may be claimed only once, unless the program or course has changed substantially. The responsibility for demonstrating that a particular program or course has changed rests solely upon the applicant.
- (G) Published Articles, Books - Credit toward the continuing professional education requirement may be claimed for published articles and books, provided they contribute to the professional competence of the licensee. Credit for preparation of such publications may be claimed on a self-declaration basis for up to twenty-five percent of the renewal period requirement. In exceptional circumstances, a licensee may request additional credit by submitting the article(s) or book(s) to the Board with an explanation of the circumstances which justify a greater allowable credit. The amount of credit awarded for a given publication will be determined at the Board's discretion.
- (H) Licensees cannot use more than 64 hours or 80 percent of continuing professional education in sections (E), (F) and (G) in a renewal period. Initial licensees, not by endorsement, that are licensed for less than two full years can use no more than 32 hours of continuing professional education in sections (E), (F) and (G).

### 9.3 CONTINUING PROFESSIONAL EDUCATION RECORDS

- (A) Applicants for renewal of licenses shall file with their applications a signed statement of the continuing professional education programs for which they claim credit, showing:
- (1) sponsoring organization;
  - (2) location of program;
  - (3) title of program or description of content;
  - (4) dates attended; and
  - (5) hours completed.
- (B) Responsibility for documenting the acceptability of the program, completion of the hours and the validity of the credits rests with the applicant. Licensees must retain the documentation for a period of five years after the completion of the program. Documentation may consist of the following:
- (1) Copy of the course outline prepared by the course sponsor along with the information required by subsection 9.3(A).
  - (2) Courses taken for scholastic credit in accredited universities and colleges, evidence of satisfactory completion of the course is sufficient; for non-credit courses, a statement of the hours of attendance signed by the instructor is required.
  - (3) Formal individual study programs require documented evidence of completion.
- (C) The Board will randomly verify information submitted by applicants. If the Board determines an applicant did not meet the requirement it may, for cause shown, grant additional time to cure deficiencies prior to taking further action.

## **PART 10: PROFESSIONAL CONDUCT**

### 10.1 INTRODUCTION

- (A) The professional conduct rules are promulgated pursuant to 26 V.S.A. § 54(b)(2), which delegates to the Board the authority and duty to adopt rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public accountancy. These rules of conduct are in addition to the laws governing professional conduct at 3 V.S.A. §129a.
- (B) The rules of conduct are based on the premise that the general public has a right to rely upon the professional competence that inheres to the use of a legally restricted title relating to the practice of public accountancy.

- (C) Acceptance of licensure to engage in the practice of public accountancy requires the licensee to abide by the laws governing the practice of the profession.
- (D) The rules of conduct apply to all professional accountancy services.
- (E) A licensee practicing public accountancy outside the United States shall conform to the standards of professional conduct applicable to the practice of public accountancy in the country where the licensee is practicing. If a licensee's foreign practice reasonably implies to clients conformity with United States conduct standards, the licensee shall comply with these rules of conduct.

## 10.2 INDEPENDENCE

A licensee shall not perform attest services unless the licensee is exercising independent judgment. The Board considers a licensee's independence to be impaired if a licensee fails to follow the current AICPA Code of Conduct, PCAOB, the Government Accountability Office standards or Securities and Exchange Commission's standards.

## 10.3 INTEGRITY AND OBJECTIVITY

A licensee shall not knowingly misrepresent facts or subordinate his or her judgment to others. In tax practice it shall not be unprofessional conduct for a licensee to resolve doubt in a client's favor based on reasonable support for the position.

## 10.4 COMMISSIONS

To help insure the public receives independent judgment, licensees shall not accept or pay commissions in the following circumstances:

- (A) Licensees shall not recommend or refer to a client any product or service for a commission and licensees shall not receive a commission for recommending or referring any product or service supplied by a client when the licensee also performs for that client
  - (1) an audit or review of a financial statement; or
  - (2) a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or
  - (3) an examination of prospective financial information.
- (C) The prohibition on commissions applies during the period in which the licensee is engaged to perform any professional service listed in this section, and the period

covered by any historical financial statement related to a professional service listed in this section.

- (D) A licensee who is not prohibited from receiving a commission, and who is paid or expects to be paid a commission, shall disclose this fact to any person the licensee recommends or refers a product or service that may generate a commission.
- (E) If a licensee *accepts* a referral fee for recommending professional services, the licensee shall disclose this to any client who is the subject of a referral fee. If a licensee *pays* a referral fee to obtain a client, the licensee shall disclose the fee to any client who is the subject of a referral fee.

#### 10.5 CONTINGENT FEES

A licensee shall not

- (A) Licensees may not work for or receive a contingency fee for any professional service rendered to a client for whom the licensee or the licensee's firm performs:
  - (1) an audit or review of a financial statement; or
  - (2) a compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or
  - (3) an examination of prospective financial information.
- (B) Licensees may not receive contingency fees for preparing an original or amended tax return or claim for a tax refund for any client.
- (C) The prohibition on contingency fees applies during the period in which the licensee is engaged to perform any professional service listed in this section, and the period covered by any historical financial statement related to a professional service listed in this section.

#### 10.6 INCOMPATIBLE OCCUPATIONS

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

#### 10.7 PEER REVIEW

- (A) A firm shall not undertake any engagement for the performance of professional services that he or she cannot reasonably expect to complete with due professional

- competence, including compliance, where applicable, with Rule 10.7. The Board will better serve the public interest when it takes positive action to monitor a firm's competence and compliance with professional standards.
- (B) As a demonstration of a firm's competence, each application for renewal under Part 8 of these rules by a firm shall be accompanied by evidence that the firm, within the three years immediately preceding the application, had been subjected to a satisfactory peer review conducted in accordance with a peer review program approved by the Board. Such peer review reports are exempt from disclosure to the public under 1 V.S.A. §317(b)(3) and (b)(6), except in cases of continuing deficiencies and noncompliance as described below.
  - (C) If no reports were issued (attest services performed) by a firm within the meaning of the Act, then no peer review need be submitted. A firm must state to the Board, under penalty of perjury, that no reports within the meaning of the Act were issued during the immediately preceding three years.
  - (D) In the case of an individual associated with a firm, the individual will be covered by the firm peer review.
  - (E) The renewal application peer review must cover at least one office of a firm and one attest engagement of the firm within the state of Vermont. The proof of such peer review shall be the report and any letter(s) of comment(s), responses or remedial actions and subsequent follow-ups by the licensee submitted to the individual or firm by the professional organization. Acceptable organizations for purposes of this rule are the AICPA, New England Peer Review (NEPR), and other nationally recognized association. The Board may accept other organizations that perform peer reviews, but only after Board review. The Board may review any organization that conducts peer reviews.
  - (F) Such reports shall not be used to initiate a disciplinary action against a licensee unless the deficiency is found to continue after due notice to the licensee. Due notice means the Board has received a report, or reports, of a firm or licensee which are substandard; that a letter of comment has been provided by the peer reviewer detailing the deficiencies; that the firm or licensee has had an opportunity to respond to the comments; and that after such response by the firm or licensee the peer reviewer directs the firm or licensee to take corrective action and the firm or unit does not or refuses to take the corrective action. Such corrective action recommended by the peer reviewer is a recommendation only and the Board, if it desires to enforce the peer reviewer's recommendation, must then initiate a disciplinary proceeding in accordance with these rules.
  - (G) Licensees are subject to a field review of work papers conducted by the Board, which may also include interviews of licensees or firm representatives. The Board may designate a representative from the Board or the Office of Professional Regulation to conduct the field review. A field review is appropriate when:

- (1) It is necessary to resolve disagreement between the Board and the licensee; or
- (2) the firm or licensee has had a prior substandard report; or
- (3) the deficiencies found in the report(s) are serious; or
- (4) the positive enforcement review results in findings that cause the Board to be concerned about the overall quality of the firm or licensee's work.

#### 10.8 CONFIDENTIAL CLIENT INFORMATION; RETENTION OF RECORDS

- (A) A licensee shall treat any information obtained from a client confidentially. A licensee shall not disclose, without the consent of the client, any information pertaining to his or her client obtained in the course of performing professional services. If a licensee receives a subpoena or other judicial process seeking a client's information, the licensee has an obligation to immediately notify the client and cooperate with any lawful and good faith effort of the client to prevent disclosure of the client's information.
- (B) In addition to all legal and contractual provision governing specific engagements licensees shall retain records for no less than five years from the date of completion of the engagement. Records shall include work papers and other documents that contain conclusions, opinions and analyses or financial data related to the engagement.

#### 10.9 ACTING THROUGH OTHERS

A licensee shall not delegate any task that, if performed by the licensee, would violate the statutes or rules governing the practice of public accountancy.

#### 10.10 ADVERTISING

- (A) A licensee shall not use or permit advertising that contains false, fraudulent, misleading, deceptive or unfair statements or claims. False, fraudulent, misleading, deceptive or unfair statements or claims include:
  - (1) Misrepresentations of fact;
  - (2) Failure to make full disclosure of relevant facts;
  - (3) Statements intended or likely to create false expectations of favorable results; or
  - (4) Any representation an ordinarily prudent person will likely misunderstand, cause them to be deceived or which the licensee reasonably believes will lead to misunderstanding or deception.

- (B) Any licensee performing professional services on-line or offering to perform professional services on-line shall prominently display for clients and potential clients:
  - (1) the licensee's name, firm name and firm registration number;
  - (2) the licensee's principal place of business;
  - (3) the licensee's business phone number;
  - (4) a statement that the individual holds a Vermont license; and
  - (5) a link to the Office of Professional Regulation's Website at <http://vtprofessionals.org> or its successor or updated site URL.
  
- (C) Any direct personal communication or solicitation related to professional services must comply with the advertising guidelines set forth in section A.

#### 10.12 MISLEADING FIRM NAMES

- (A) A licensee may not use a misleading firm name.
  
- (B) Firm names that are misleading include:
  - (1) A name that falsely implies the existence of a corporation when the firm is not a corporation (for example: by using abbreviations such as "P.C." or "P.A.");
  - (2) A firm name that falsely implies the existence of a partnership when there is not a partnership (for example: "Smith & Jones, C.P.A.s"); or
  - (3) A firm that includes the name of a person who is not, or was not, a partner or shareholder of the firm.
  - (4) The foregoing is not all inclusive.

## **PART 11: DISCIPLINARY ACTIONS AGAINST LICENSEES**

### **11.1 GROUND FOR DISCIPLINARY ACTIONS AGAINST LICENSEES**

The grounds for revocation and suspension of licenses and registrations, and other disciplinary action against licensees, are set out in 26 V.S.A. § 76, and 3 V.S.A. § 129a.

### **11.2 RETURN OF LICENSES OR OFFICE REGISTRATIONS**

Any licensee whose license or firm registration is suspended or revoked shall return it to the Board no later than five days from entry of the Board's order.

### **11.3 BOARD SANCTIONS**

As sanctions for unprofessional conduct, the Board may:

- (A) Revoke a license or registration;
- (B) Suspend a license or registration for a fixed term;
- (C) Issue a reprimand;
- (D) Issue a warning;
- (E) Order restitution; or
- (F) Impose conditions.

### **11.4 CRITERIA FOR THE SELECTION OF SANCTIONS**

- (A) Revocation is the most severe sanction available to the Board and is reserved for the most serious infractions. Suspension is a moderate to severe sanction, the length of which will be set to reflect the seriousness of the infraction. Conditions may be appropriate to restrict the practice of a licensee, require education or to ensure further monitoring and follow-up by the Board. The Board may warn licensees for minor instances of unprofessional conduct not affecting client welfare. Administrative penalties are available for any infraction.
- (B) Factors that tend to aggravate the seriousness of the offense and increase the sanction imposed include
  - (1) Dishonesty by the licensee;
  - (2) Financial loss or other harm to those reasonably relying on the licensee;
  - (3) Number of violations;
  - (4) Licensee's intent;
  - (5) Prior findings of unprofessional conduct;
  - (6) Incurability or inability to take or make corrective measures.
- (C) Factors that may reduce a sanction include:
  - (1) Honesty by the licensee;

- (2) Lack of financial loss or other harm to those reasonably relying on the licensee;
  - (3) Number of violations found;
  - (4) Lack of intent by the licensee in the unprofessional conduct;
  - (5) Lack of prior findings of unprofessional conduct;
  - (6) Ease with which measures may be taken to correct the injury or unacceptable practice; or
  - (7) Unforeseen illness that affected the licensee's ability to practice.
- (D) Upon a finding of unprofessional conduct, the Board in its discretion may order restitution from a licensee to an aggrieved consumer pursuant to 1 V.S.A. §78. The type, amount and whether to included restitution as part of an unprofessional conduct disposition shall be solely a matter of Board discretion. Restitution, or the lack of it, shall be determined based on the professional disciplinary hearing conducted pursuant to 3 V.S.A. §129 and Title 26, Chapter 1. Restitution pursuant to Title 26, Chapter 1 and these rules is separate from, and in addition to, any civil remedies or causes of action that may exist.

#### 11.5 MAKING AND RESOLVING COMPLAINTS

The Board follows the current investigation and disciplinary procedure adopted from time to time by the Office of Professional Regulation, except where these rules provide otherwise. Copies of the procedure, complaint forms and more information about the complaint process may be obtained from the Office.

#### 11.6 APPEALS OF BOARD DECISIONS

Final administrative decisions by the Board made pursuant to the Administrative Procedure Act (Title 3, Chapter 25) are subject to appeal in accordance with 3 V.S.A. §130a.

### **PART 12: REINSTATEMENT**

#### 12.1 APPLICATIONS FOR RELIEF FROM DISCIPLINARY PENALTIES

- (A) A licensee or firm whose license or firm registration has been revoked, suspended or conditioned pursuant to 26 V.S.A. § 78 or 3 V.S.A. § 129a may apply to the Board for modification of the suspension, revocation or conditions.
- (B) The application shall be in writing; shall set out and, as appropriate, substantiate the reason(s) constituting good cause for the relief sought, addressing factors set out in Reinstatement Procedures adopted by the Office of Professional Regulation. The application must include at least two supporting recommendations, under oath, from licensees who have personal knowledge of the activities of the applicant since the Board imposed the suspension, revocation or conditions.